



# भारत का राजपत्र The Gazette of India

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सं. 24] नई दिल्ली, जून 5—जून 11, 2016, शनिवार/ज्येष्ठ 15—ज्येष्ठ 21, 1938  
No. 24] NEW DELHI, JUNE 5—JUNE 11, 2016, SATURDAY/JYAISTHA 15—JYAISTHA 21, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

वित्त मंत्रालय  
(वित्तीय सेवाएं विभाग)  
नई दिल्ली, 3 मई, 2016

**का.आ. 1134.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, नीचे दी गई सारणी के कालम (3) में विनिर्दिष्ट व्यक्ति को उक्त सारणी के कालम (2) में विनिर्दिष्ट व्यक्ति के स्थान पर कालम (1) में विनिर्दिष्ट देना बैंक में तत्काल प्रभाव से और अगले आदेश होने तक, निदेशक नामित करती है:-

क्रम सं.	बैंक का नाम	वर्तमान निदेशक का नाम	प्रस्तावित व्यक्ति का नाम
	1	2	3
1.	देना बैंक	श्री वी. वसन्त	श्री एस.सी. मुर्मू, मुख्य महाप्रबंधक, भारतीय रिजर्व बैंक, आईटी विभाग, केन्द्रीय कार्यालय, 14वां तल, केन्द्रीय कार्यालय भवन, शहीद भगत सिंह रोड, मुम्बई-400001

[फा. सं. 6/3/2011-बीओ-I]

ज्ञानोत्तम राय, अवर सचिव

**MINISTRY OF FINANCE****(Department of Financial Services)**

New Delhi, the 3rd May, 2016

**S.O. 1134.**—In exercise of the powers conferred by clause (c) of the sub-section (3) of Section 9 of The Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominate the person specified in column (3) of the table below as Director of Dena Bank specified in column (1) thereof in place of the person specified in column (2) of said Table, with immediate effect and until further orders—

SI. No.	Name of the Bank	Name of the Existing Director	Name of the Persons proposed
	(1)	(2)	(3)
1.	Dena Bank	Shri V. Vasanthan	Shri S.C. Murmu, CGM, Reserve Bank of India, Department of Information Technology, Central Office, 14th Floor, Central Office Building, Shahid Bhagat Singh Road, Mumbai- 400 001.

[F.No. 6/3/2011-BO.I]

JNANATOSH ROY, Under Secy.

**(हिन्दी अनुभाग-2)**

नई दिल्ली, 6 जून, 2016

**का.आ. 1135.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में राजस्व विभाग के केन्द्रीय उत्पाद शुल्क और सीमाशुल्क बोर्ड के अधीन प्रधान आयुक्त का कार्यालय, सेवाकर दिल्ली-1, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं.ई-11017/1/2015-ए.डी.(हिंदी-2)]

मीमांसक, संयुक्त निदेशक (राजभाषा)

(HINDI SECTION-2)

New Delhi, the 6th June, 2016

**S.O. 1135.**—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official purpose of the Union) Rules, 1976, the Central Government hereby Notifies Office of the Principal Commissioner, Service tax, Delhi-1 under CBEC of D/o Revenue, where more than 80% staff have acquired the working knowledge of Hindi.

[F. No. E-11017/1/2015-AD(Hindi-2)]

MIMANSK, Jt. Director (OL)

**कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय****(कार्मिक और प्रशिक्षण विभाग)**

नई दिल्ली, 1 जून, 2016

**का.आ. 1136.**—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए जोधपुर स्थित राजस्थान उच्च न्यायालय की जोधपुर पीठ में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों का अभियोजन एवं इनसे उत्पन्न दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा अन्वेषित अन्य प्रासंगिक मामलों में अपील, पुनरीक्षण का संचालन करने के लिए श्री सचिन आचार्य, अधिवक्ता, को उनकी नियुक्ति की तारीख से तीन वर्षों के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/10/2016-ए.वी.डी.-II]

मो. नदीम, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS****(Department of Personnel and Training)**

New Delhi, the 1st June, 2016

**S.O. 1136.**—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Sachin Acharya, Advocate as Special Public Prosecutor for conducting prosecution of cases instituted by Delhi Special Police Establishment (CBI) in the Jodhpur Bench of Rajasthan High Court at Jodhpur and appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI) for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F.No. 225/10/2016-AVD-II]

Md. NADEEM, Under Secy.

नई दिल्ली, 8 जून, 2016

**का.आ. 1137.**—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बंगलौर स्थित कनार्टक उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापना (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थापित मामलों का अभियोजन एवं इनसे उत्पन्न दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा अन्वेषित प्रासंगिक अन्य मामलों में अपील, पुनरीक्षण का संचालन करने के लिए श्री पी. प्रसन्ना कुमार, अधिवक्ता को उनकी नियुक्ति की तारीख से तीन वर्षों के लिए अथवा अगले आदेशों तक जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा.सं. 225/70/2012-एवीडी-II (पार्ट)]

मो. नदीम, अवर सचिव

New Delhi, the 8<sup>th</sup> June, 2016

**S.O. 1137.**— In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri P. Prasanna Kumar, Advocate as Special Public Prosecutor for conducting prosecution of cases instituted by Delhi Special Police Establishment (Central Bureau of Investigation) in the Karnataka High Court at Bangalore and appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI) for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F.No. 225/70/2012-AVD-II (Pt.)]

Md. NADEEM, Under Secy.

नई दिल्ली, 8 जून, 2016

**का.आ. 1138.**—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कलकत्ता उच्च न्यायालय के पोर्ट ब्लेयर सर्किट पीठ में दिल्ली विशेष पुलिस स्थापना (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थापित मामलों का अभियोजन तथा इनसे उत्पन्न दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा अन्वेषित प्रासंगिक अन्य मामलों में अपील, पुनरीक्षण का संचालन करने के लिए श्री राकेश पाल गोबिंद, अधिवक्ता को उनकी नियुक्ति की तारीख से तीन वर्षों के लिए अथवा अगले आदेशों तक जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा.सं. 225/09/2016-एवीडी-II]

मो. नदीम, अवर सचिव

New Delhi, the 8<sup>th</sup> June, 2016

**S.O. 1138.**— In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Rakesh Pal Gobind, Advocate as Special Public Prosecutor of the Delhi Special Police Establishment (Central Bureau of Investigation) for the Port Blair Circuit Bench of Calcutta High Court for conducting prosecution, appeals, revisions or other matter arising out of the cases investigated by the Delhi Special Police Establishment (CBI) for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F.No. 225/09/2012-AVD-II]

Md. NADEEM, Under Secy.

**स्वास्थ्य एवं परिवार कल्याण मंत्रालय**

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 31 दिसम्बर, 2015

**का.आ. 1139.**—दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा स्वास्थ्य परिवार कल्याण मंत्रालय के दिनांक 24 जनवरी, 1984 के का.आ. सं. 430 में निम्नलिखित संशोधन करती है, अर्थात् :

2. “धारा 3 के खंड (घ) के अंतर्गत निर्वाचित” शीर्ष के तहत उक्त अधिसूचना में निम्न प्रविष्टियां अंतःस्थापित के जाएंगी, अर्थात् :

“डॉ. हिमांशु एरन, प्रोफेसर एवं निदेशक, सीमा, दंत चिकित्सा कॉलेज एवं अस्पताल, ऋषिकेश, उत्तराखंड	निर्वाचित	हेमवती नंदन बहुगुणा गढ़वाल विश्वविद्यालय (एचएनबी गढ़वाल विश्वविद्यालय), श्रीनगर, उत्तराखंड	17.10.2013”
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[फा. सं. वी-12025/33/2015-डीई]

डी. वी. के. राव, अवर सचिव

**MINISTRY OF HEALTH AND FAMILY WELFARE**

(Department of Health and Family Welfare)

New Delhi, the 31st December, 2015

**S.O. 1139.**—In exercise of the powers conferred under Section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. S.O. 430 dated 24<sup>th</sup> January, 1984, namely :

2. In the said notification under head “elected under clause (d) of Section 3”, the following shall be inserted therein, namely :

“Dr. Himanshu Aeran, Professor and Director, Seema Dental College and Hospital, Rishikesh, Uttarakhand	Elected	Hemwati Nandan Bahuguna Garhwal University (HNB Garhwal University), Srinagar, Uttarakhand	17.10.2013”
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[F.No. V-12025/33/2015-DE]

D. V. K. RAO, Under Secy.

**मानव संसाधन विकास मंत्रालय**

(उच्चतर शिक्षा विभाग)

(राजभाषा प्रभाग)

नई दिल्ली, 2 जून, 2016

**का.आ. 1140.**—केन्द्रीय सरकार, एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत नवोदय विद्यालय समिति, नोएडा के अधीन जवाहर नवोदय विद्यालय, बन्दरोल, जिला-कुल्लू, हिमाचल प्रदेश को, ऐसे कार्यालय के रूप में, जिसके 80% से अधिक कर्मचारी-वृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं. 11011-3/2016-रा.भा.ए.]

सुखबीर सिंह संधु, संयुक्त सचिव

**MINISTRY OF HUMAN RESOURCE DEVELOPMENT****(Department of Higher Education)**

(O.L. UNIT)

New Delhi, the 2nd June, 2016

**S.O. 1140.**—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notify the Jawahar Navodaya Vidyalaya, Bandrol, District -Kullu, Himachal Pradesh of Navodaya Vidyalaya Samiti, Noida under the Ministry of Human Resource Development (Department of School Education & Literacy) as an office, whose more than 80% members of the staff have acquired working knowledge of Hindi.

[No. 11011-3/2016-O.L.U.]

SUKHBIR SINGH SANDHU, Jt. Secy.

**विद्युत मंत्रालय**

नई दिल्ली, 7 जून, 2016

**का.आ. 1141.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावर ग्रिड कारपोरेशन ऑफ इंडिया लिमिटेड के पूर्वी क्षेत्र पारिषद प्रणाली- II, के अधीन “400/220 केवी मैथन उपकेंद्र, डाकघर-रूपनारायनपुर, बर्धमान-713386 (प.बं.)”, जिसके 80% से अधिक कर्मचारी-वृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[सं. 11017/10/2013-हिंदी]

डॉ. आर. सी. शर्मा, संयुक्त निदेशक (रा.भा.)

**MINISTRY OF POWER**

New Delhi, the 7th June, 2016

**S.O. 1141.**—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notify “400/200 Kv Maithon Substation, PO-Rupnarayanpur, Burdwan-713386 (WB)” under the Eastern Region Transmission System-II, of the Power Grid Corporation of India Ltd. under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi.

[No. 11017/10/2013-Hindi]

Dr. R.C. SHARMA, Jt. Director (O.L.)

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 2 जून, 2016

**का.आ. 1142.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल सिल्क बोर्ड, सिंघुम के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (आईडी संदर्भ सं. 50, 53 और 55/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31.05.2016 को प्राप्त हुआ था।

[सं. एल-42012/250/99-आईआर (डीयू),

सं. एल-42012/246/99-आईआर (डीयू),

सं. एल-42012/28/2000-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 2nd June, 2016

**S.O. 1142.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 50, 53 and 55 of 2000) of the Central Government Industrial Tribunal-cum-Labour-Court No.-2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Silk Board, Singhbhum and their workmen, which was received by the Central Government on 31.05.2016.

[No. L-42012/250/99-IR (DU),

No. L-42012/246/99-IR (DU),

No. L-42012/28/2000-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD****PRESENT :** Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947.

**REFERENCE NO. 50 OF 2000 (Amalgamated)****with****REFERENCE NO. 53 OF 2000 (Amalgamated)****with****REFERENCE NO. 55 OF 2000**

Sh.Budhan Lal Sardar,  
Vill: Arwa, P.O.Arwa Kuchai, Singhbhum -833216 (Jharkhand)

**And**

Shri Motilal Mahato,  
Vill: Moladih, PO: Kharsawan, Singhbhum -833216 (Jharkhand),

**And**

Sh.Turam Roy,  
Sariam, PO: Kuchai Arwa, Singhbhum-833216 (Jharkhand)

**Vs.**

The Asstt. Director,  
Central Silk Board, PO: Kharsawan, Singhbhum-833216

(Ministry's Order No.L-42012/250/99/IR (DU) dated 02.03.2000)

(Ministry's Order No.L-42012/246/99/IR (DU) dated 17.02.2000)

(Ministry's Order No.L-42012/28/2000/IR (DU) dated 31.05.2000)

respectively

**APPEARANCES :**

On behalf of the workman/Union : Mr. C.Prasad, Ld.Advocate

On behalf of the Management : Mr. Sumiran Pal, Ld.Advocate

State : JHARKHAND

Industry : Textile

Dated, Dhanbad, the 13<sup>th</sup> May, 2016

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following disputes to this Tribunal for adjudication vide their Order Nos. referred to above under Reference heads as per the Schedules:.

**THE SCHEDULE OF REF. NO. 50 OF 2000**

“Whether the action of the Management of Basic Seed Multiplication and Training Centre at Kharasawan in terminating the services of Sh.Budhan Lal Sardar, workman w.e.f 17.10.98 from the roll of BSM & TC is legal and justified? If not, to what relief the workman is entitled?”

**THE SCHEDULE OF REF. NO. 53 OF 2000**

“Whether the action of the Management of Basic Seed Multiplication and Training Centre at Kharasawan in terminating the services of Sh.Motilal Mahato, workman w.e.f 06.02.97 from the roll of BSM & TC is legal and justified? If not, to what relief the workman is entitled?”

**THE SCHEDULE OF REF. NO. 55 OF 2000**

“Whether the action of the Management of Basic Seed Multiplication and Training Centre at Kharasawan in terminating the services of Sh.Turam Roy, workman w.e.f 17.10.98 from the roll of B.S.M & .T.C is justified? If not, to what relief the workman is entitled?”

On receipt of the Order Nos. (Ministry's Order No.L-42012/250/99/IR (DU) dated 02.03.2000) (Ministry's Order No.L-42012/246/99/IR (DU) dated 17.02.2000) and (Ministry's Order No.L-42012/28/2000/IR (DU) dated 31.05.2000) respectively of the above mentioned references from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 50 of 2000,53 of 2000 and 55 of 2000 were registered on 28.03.2000,19.04.2000 and 13.07.2000 respectively and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said orders, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Workmen/Petitioners and the O.P./Management through their own Ld. Counsels appeared respectively, and contested the case.

2. The case of the workmen as narrated by them in their respective W.Ss as follow : that the workmen named S/Shri Budhan Lal Sarkar,Motilal Mahato and Turam Roy were originally appointed in the years 1983, respectively by the Management of Basic Seed Multiplications Training Centre at Kharasawan against permanent vacancies since 1983 to the full confidence and satisfaction of Higher Ups of the Management .The workmen had been rendering service as permanent workmen and completed 240 days in each of the calendar year and thus attained the status of permanent workmen after having completed 240 days .The petitioners/ workmen were threatened by the Management when they raised the issue of permanent status at par with other workmen .Ultimately they were terminated from the services of the Management without assigning any reason whatsoever and without affording any opportunity. Riding on the alleged action, the Management violated the mandatory provisions of Sec.25 –F, 25-N and 9-A of the I.D. Act, 1947 as they claimed in their W.S.Though the workmen preferred representations to the Management against the arbitrary action, they were assured by the Higher Ups of the Management to wait patiently as the matter had referred to the Higher Ups but the Management could not reinstate them with back wages .However the matter was brought before the ALC®, Chaibasa for conciliation but the adamant and firm stand the Management stood by, the conciliation fell flat to yield an positive result. So the whole exercise of the action of the Management, the workmen sniffed as illegal arbitrary and unjustified and against the principle of the natural justice.

Though the Management asserted denying all the allegations of the workmen concerned that the Central Silk Bard is a statutory body under the Ministry of Textiles, Government of India highlighting the main function of research and development arena. As the board nor its Unit are not engaged any trade or commerce so as to attribute the Centre as Industrial status will not be justified. The Centre main focus on research and seed preparation activities stands seasonally. Mr.Budan Lal Sardar and Mr.Motilal Mahato and Mr.Turam Roy were exclusively engaged for specific seasons as per the pre-calculated requirement of work and approved man- days purely on casual labourers on ‘no work –no pay’ policy and by the time the Centre had on its rolls 32 seasonal workers .The three were amongst of them .The said seasonal farm workers were full aware of the facts that depending upon availability of work and sanction man days, they will get work and then they will discontinued and they will work elsewhere for their livelihood. The aforesaid three workers have not never completed 240 days continuously as their engagement were based on intermittently for purely seasonal nature of works for a specific during the year. As the nature of work is no perennial specially in the Unit warranting regular engagement throughout the year, The Unit cannot provide regular work to the seasonal farm workers.

So the question of termination does not arise at all nor can the Unit provide them regular worker any relief. So it is not maintainable in the merit of the case.

In essence .the workmen concerned are daily wager only given 50 -55 days work, in a calendar year as stated by the Management. The Daily wager workmen taken in job as & when required, and not allowed to work, when there is no work. In this case also the Management may take the workmen concerned under the aforesaid Reference Cases , in jobs as and when required, if they are otherwise disciplined.

R. K. SARAN, Presiding Officer

नई दिल्ली, 2 जून, 2016

**का.आ. 1143.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोचीन पत्तन न्यास के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ सं. 18/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.06.2016 को प्राप्त हुआ था।

[सं. एल-35011/6/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 2nd June, 2016

**S.O. 1143.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Cochin Port Trust and their workmen, received by the Central Government on 02.06.2016.

[No. L-35011/6/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

**Present:** Shri K Sasidharan, B.Sc., LLB, Presiding Officer

(Monday the 15<sup>th</sup> day of February, 2016/26<sup>th</sup> Magha, 1937)

#### ID 18/2011

Union	:	The General Secretary, Cochin Port Employees Organisation, Venkitaraman Road, W/Land, COCHIN - 9.  By Adv. Shri Asok M. Cherian
Management	:	The Chairman, Cochin Port Trust, Willington Island, COCHIN.  By M/s.B.S. Krishnan Associates

This case coming up for final hearing on 20.01.2016 and this Tribunal-cum-Labour Court on 15.02.2016 passed the following:

#### AWARD

This is a matter referred by the Central Government clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947).

2. The dispute referred for adjudication before this tribunal is:



“Whether the action of the management of Cochin Port Trust in going ahead with the proposal of cadre restructuring overlooking the apprehensions of the unions about its detrimental effects on career progression is justified? What relief the workers are entitled to?”

3. After receipt of the reference order No.L-35011/6/2010-IR(B-II) dated 31.05.2011, summons was issued to the parties to appear and answer all the claims to substantiate their respective contentions. The union and the management entered appearance through their respective counsel.

4. The union filed claim statement contending as follows:

The Cochin Port Trust as per Resolution No.143 approved the proposal to amend Cochin Port Employees Recruitment, Seniority and Promotions Regulations 2005 and the Recruitment Rules for implementing the cadre-restructuring orders for Class-I officers, issued by the Ministry of Shipping vide order No.A/290/18/5/99-PEI dated 06.02.2004. Union had strong objections and raised this industrial dispute for adjudication. Before the Conciliation Officer – The Assistant Labour Commissioner(Central), Ernakulam, the trade unions contended that if the order aforesaid is implemented, it will adversely affect the service conditions and promotion prospects of the port employees. Apart from that, the aforesaid order is against the terms of the existing settlement and hence the union has requested not to implement the same.

5. On 29.05.2004 a Memorandum of Understanding was signed between the management and the union with the understanding that “since the matter has been referred to the Government for clarification and the subject on the dispute has also been raised by the officers also, the management agreed to discuss the matter further and addressed the concern of the Union prior to implementing the Government Order of cadre-restructuring”.

6. Overlooking the assurance and mutual understanding the management proceeded with the proposal which was opposed by the union and Class III employees in all major ports. Five recognized federations in Indian major ports served notice of strike to the respective port managements seeking intervention of the Chief Labour Commissioner(Central), New Delhi. On the basis of that notice, the Chief Labour Commissioner(Central) conciliated the dispute and a memorandum of settlement was arrived at on 15.07.2008 in accordance with Section 12(3) of the ID Act, 1947. The demands such as merger of 50% DA w.e.f.01.01.2007, grant of interim relief w.e.f.01.01.2007 and rising of basic amount from ₹2,500/- to ₹3,500/- for computing PLR were settled in full and final. The management of Major Port Trusts and Dock Labour Boards agreed to discuss and settle the disputes relating to the demand of “*Implementation of the report of the committee constituted by Ministry to look into the effect of cadre restructuring of Port & Dock Officers in order to protect the promotional prospects of Class III & Class IV employees by 31.12.2008*”. On the basis of which the federations agreed to withdraw the strike notice. Even though there was a statutory settlement, the management is proceeding with the cadre restructuring process. The federations have taken up the issue with the Union Government. A bipartite committee was constituted to look into the matter and to recommend adequate measures to avoid adverse effects on Class III & Class IV employees while implementing the proposal for cadre restructuring. A twelve member committee appointed by the Ministry of Shipping consists of five labour representatives and seven officials headed by Shri R.K. Jain, the then Managing Director of Indian Ports Association. The committee submitted their report on 19.01.2006. The anomalies and adverse effects on the promotion prospects of Class III employees were explained in the report submitted by the committee in case the proposal was implemented in the existing form. The management is not ready to have any meaningful discussions to evolve remedial measures so as to remove the anomalies and adverse impact while implementing the cadre restructuring. Even though the union raised another industrial dispute as per letter dated 07.05.2009, it did not yield any desired result due to the adamant nature of the management. In the meeting of the Board of Trustees held on 08.05.2009 draft Recruitment, Seniority & Promotion Regulation 2009 was placed ignoring the written request of the union. The Port Trust Board resolved to approve the Cochin Port Trust Employees (RSP) Regulations 2009. On verification it is seen that the said Regulation is detrimental to the interest of Class I officers promoted from Class III posts. The action of the management is against the terms of said Regulation and detrimental to the interest of Class I officers promoted from Class III posts. The action of the management is against the terms of settlement made under Section 12(3) of the ID Act. If the said Regulation is implemented the promotion prospects of Class III ministerial cadre will be affected by opening new avenues to new categories of employees directly recruited on implementing the new RSP Regulation. The union has stated that the action of the management is against the statutory settlements, practices and precedent. Therefore the union has requested to declare that the proposed amendment to the Cochin Port Employees Recruitment, Seniority and Promotions Regulations 2005 and the Recruitment Rules forming the part of Regulations for implementing the cadre-restructuring of Class I officers, issued by the Ministry of Shipping and approved by the management as per Resolution No.143 dated 29.03.2006 as illegal and hence to set aside the same.

7. The contentions in the written statement filed by the management are as follows:

They have denied all the averments in the claim statement filed by the union. They have stated that the General Secretary, Cochin Port Employees Organisation who raised the industrial dispute, has no locus standi to raise the dispute. The dispute relates to the cadre restructuring of Class I officers of the management. Those officers of the management will not come within the definition of 'workman' as defined under Section 2(s) of the Industrial Disputes Act. Hence the union has no right to espouse the cause of non-workmen category. Secondly, restructuring of the cadres of Class I officers and introduction of corresponding recruitment, seniority and promotion regulations is a major policy decision and within the discretion of the management. The management has got the discretion and right to frame and follow suitable measures in order to maintain efficiency, effectiveness and meeting the challenges of the organizational structure since it is within the policy decision of the management.

8. The cadre restructuring proposal was prepared by two pay revision committees consisting of eminent experts on the subject and it was approved by the Ministry of Shipping, Government of India. Under Section 111 of the Major Port Trust Act, 1963, the Ministry of Shipping is vested with the power to issue directions to major ports. The Board of Trustees of the Cochin Port approved the cadre restructuring proposal as well as the Recruitment, Seniority and Regulations submitted to the Ministry of Shipping, Government of India. The proposal was approved by the Ministry of Shipping and it was notified in the Gazette of India before its implementation. The Cochin Port Staff Association and some individual employees filed Writ Petitions before the Hon'ble High Court of Kerala challenging the implementation of cadre restructuring orders for Class I officers of Cochin Port. The issue now referred is under consideration before the Hon'ble High Court. Continuation of parallel proceedings before this court is not maintainable.

9. Cadre restructuring of Class I officers in the management establishment has already been implemented. The cadre restructuring was made on all India basis for Class I officers of all the major ports for the sake of uniformity and it has already been implemented in the management establishment. Therefore the issue referred for adjudication has become infructuous since the issue relates to the cadre restructuring of Class I officers of all major port Trusts including several establishments in more than one state. Therefore the issue ought to have been referred to a National Tribunal.

10. The issue relates to Class I officers under the management. They are not made as parties to the dispute. They are the affected parties by the outcome of the dispute. The reference is bad for non-joinder of necessary parties.

11. The Ministry of Shipping, Government of India finalized the cadre restructuring proposal and Model Recruitment, Seniority and Promotion (RSP) and issued order dated 06.02.2004. Again the Ministry of Shipping as per letter dated 26.07.2004 forwarded the Model R, S & P Regulations and directed the Port Trust Boards to finalize the Recruitment, Seniority and Promotion Regulations. The Cochin Port Trust Board as per the Resolution No.143 dated 29.03.2006 approved the Regulations and it was sent to the Ministry in the year 2006 for according sanction and notification in the gazette. Subsequently discussions were held with the unions on the points/grievances raised by them at the local level and national level and thereafter the Ministry vide letter dated 15.07.2008 directed the management to consider the RSP Regulations in accordance with the Model RSP Regulations for the sake of uniformity in all major ports. By Resolution No.20 dated 08.05.2009 the management approved the Regulations and it was sent to the Ministry for sanction and notification. Accordingly the Ministry approved the same and it was notified in the Gazette vide GSR No.862(E) dated 28.10.2010.

12. The service conditions and interest of Class III and Class IV employees are not adversely affected due to the implementation of cadre restructuring. Due to the implementation of the cadre restructuring the Class I officers and junior officers working in the management have been elevated.

13. The Dearness Allowance and Productivity Linked Reward (PLR) do not have any relevance to the matter in issue. The Cochin Port Trust has followed all the procedures in accordance with law before implementing the cadre restructuring of officers and new Recruitment, Seniority and Promotion Regulations. The Cochin Port Trust is a Central Autonomous body. It has to operate on commercial basis without any normal budgetary support from the Government. The Port has to follow progressive human resource policies and procedures to meet the future challenges. The main objective of cadre restructuring is to address the anomalies in the cadre of officers in all the major ports and to integrate isolated posts in the officers' cadre with the main stream so as to bring out fair degree of uniformity in all major ports. It was done as a progressive human resource policy. Therefore the management has requested to pass an award holding that their action in implementing the cadre restructuring order is justified and that the union is not entitled to the relief claimed.

14. After filing written statement by the management, the matter was posted for rejoinder by the union. The union has not filed any rejoinder. After affording sufficient opportunity to the parties for taking steps and for production of documents, the matter was posted for evidence. On behalf of the management MW1 was examined and Exts.M1 to M9 are the documents marked. On behalf of the union no witness was examined and no documents were marked. Heard both sides.

15. The points arising for consideration are:

- “(i) Whether the union has any legal right to raise the industrial dispute in relation to the cadre restructuring of Class I officers of the management?
- (ii) Whether the reference is bad for non-joinder of necessary parties?
- (iii) Whether the dispute has to be referred to the National Tribunal?
- (iv) Whether there is any illegality or impropriety on the part of the management in implementing the proposal for cadre restructuring?
- (v) Whether the management is well within their right in proceeding with the proposal for cadre restructuring and implementation of the new RSP Regulations?
- (vi) To what relief the workmen are entitled?”

16. Point No.(i):- At the instance of the General Secretary of Cochin Port Employees Organisation, Kochi-9 the following dispute was referred to this tribunal for adjudication:

“Whether the action of the management of Cochin Port Trust in going ahead with the proposal of cadre restructuring overlooking the apprehensions of the unions about its detrimental effects on career progression is justified? What relief the workers are entitled to?”

17. The union raised the dispute against the implementation of cadre restructuring orders for Class I officers in the Cochin Port Trust. As per Resolution No.143 the Cochin Port Trust approved the proposal to amend the Cochin Port Employees Recruitment, Seniority and Promotions Regulations 2005 and also the Recruitment Rules for the purpose of implementing cadre restructuring for Class I officers. It was done in accordance with the order No.A/290/18/5/99-PEI dated 06.02.2004 issued by the Ministry of Shipping. According to the union the action of the management is detrimental to the interest of Class III and Class IV officers and there are serious anomalies affecting the promotion prospects of Class III employees if the proposal is implemented in the present form.

18. The management has contended that the union in this matter is representing the workman category of employees under the management and they have no legal right to raise the dispute concerning the cadre restructuring of Class I officers of the management. They would also state that the Class I officers working under the management will not come under the purview of workman as defined under Section 2(s) of the Industrial Disputes Act.

19. The union in this matter has espoused the claim of Class III and Class IV employees working under the management. The union has stated that in case the proposal is implemented in its present form without considering the promotion prospects of the Class III and Class IV employees it will have adverse effect on the employees representing the union. In view of the aforesaid contention by the union it cannot be held that the union has no legal right to raise the industrial dispute in relation to the proposal for cadre restructuring. Hence the point is answered to the effect that the union has got the legal right to espouse the claim.

20. Point No.(ii):- The management has contended that the dispute relates to the cadre restructuring of Class I officers working under the management. It is stated that without impleading the Class I officers, the dispute raised in this matter is bad for non-joinder of necessary parties. The matter in issue in this case is cadre restructuring of Class I officers under the management. The union has contended that in case the cadre restructuring of Class I officers as suggested is implemented by the management it will adversely affect the promotion prospects of Class III and Class IV employees. The espousal of the claim by the union is in relation to the service conditions and promotion prospects of Class III and Class IV employees. In such a circumstance it cannot be held that the reference is not bad for non-joinder of necessary parties. Therefore the point is answered in favour of the union.

21. Point No.(iii):- The management has raised the contention that the cadre restructuring proposal was prepared by two pay revision committees consisting of eminent experts on the subject and it was approved by the Ministry of Shipping, Government of India. It is stated that the issue relates to cadre restructuring of Class I officers of all major Port Trusts. According to the management the dispute is of such a nature that several establishments situated in more than one state are likely to be interested or affected by such dispute and therefore the issue ought to have been referred to a National Tribunal.

22. The dispute referred for adjudication is:- whether the action of the management of Cochin Port Trust in proceeding with the proposal for cadre restructuring overlooking the apprehensions of the union about its detrimental effects on career progression is justified. The matter in issue relates exclusively to the proposal for cadre restructuring under the management of Cochin Port Trust. The issue referred for adjudication is confined to the management of Cochin Port Trust and as such it cannot be held that the issue will affect several establishments situated in more than one state. Therefore there is no necessity to refer this dispute before the National Tribunal. The point is answered accordingly.

23. Point Nos.(iv) & (v):- The union has raised the industrial dispute against the implementation of the cadre restructuring orders for Class I officers in the Cochin Port Trust. It is stated that the trade unions have raised strong objections in this regard for the reason that if it is implemented it would adversely affect the service conditions and career prospects of the Port employees. They have stated that the orders issued at the instance of the management for cadre restructuring, are against the terms of the existing settlement. They have further stated that a Memorandum of Understanding was signed between the management of Cochin Port Trust and the Cochin Port Employees Organisation before the Assistant Labour Commissioner in relation to the cadre restructuring of officers. According to the union the understanding was that the management agreed to discuss the matter further before implementing the Government order of cadre restructuring. The union has stated that if the management is allowed to do so it will adversely affect the service conditions of Class III employees in all major ports.

24. The union has further stated that the bipartite committee constituted to look into the matter recommended adequate measures to give up detrimental effects on Class III and Class IV employees while implementing the cadre restructuring proposal. It is stated that a twelve member committee was constituted in this regard and the committee submitted report on 19.01.2006. The union has stated that the Ministry of Shipping, Indian Ports Association or the respective Port Trusts have not held any meaningful discussions so as to evolve any remedial measures to remove the anomalies and adverse impact while implementing the cadre restructuring. They have mentioned about the steps initiated by them before the competent authorities for the redressal of their grievance. It is stated that the steps initiated by them did not yield any positive result in their favour. According to the union the new RSP Regulations will adversely affect the Class I officers promoted from Class III posts. According to the union the action of the management is in violation of the settlement made under Section 12(3) of the ID Act.

25. The management has disputed the claim of the union. According to them the restructuring of cadres of Class I officers and introduction of corresponding Recruitment, Seniority Regulations is a major policy decision and it is within the discretion of the management. It is stated that the management has got the authority and discretion to frame and follow suitable decisions in order to maintain efficient persons in the managerial cadre and to meet the challenges of the organization in a competitive environment. They would further state that the cadre restructuring proposal was prepared by two pay revision committees consisting of eminent experts on the subject and it was approved by the Ministry of Shipping, Government of India. Subsequently the proposal was forwarded to each major ports. It is stated that the Board of Trustees of Cochin Port approved the cadre restructuring proposal as well as the Recruitment, Seniority and Promotion Regulations and submitted the same to the Ministry of Shipping, Government of India for approval. Before implementing the proposal it was notified in the Gazette. The management has further stated that in order to bring about fair amount of uniformity in the cadres of officers in all major ports and to rationalize and streamline Recruitment, Seniority and Promotion (RSP) procedures in the major ports and to follow progressive human resource policies and procedures in order to meet future challenges, the Ministry initiated the process of cadre restructuring of officers in the major ports. The management has further stated that as per the order dated 06.02.2004 the Ministry of Shipping issued cadre restructuring orders. Subsequently the Cochin Port Trust Board as per Resolution No.143 dated 29.03.2006 approved the Cochin Port (R, S & P) Regulations and it was sent to the Ministry in the year 2006 for sanction and Gazette Notification. It is stated that the Ministry held discussions with the major federations of Port and Dock Workers on this subject and thereafter they issued a letter dated 15.07.2008 and directed the management to consider the RSP Regulations strictly in accordance with the Model RSP Regulations for the purpose of uniformity in all major ports. The management has stated that the Port Trust Board as per Resolution No.20 dated 08.05.2009 approved the Cochin Port Employees (R, S & P) Regulations and it was sent to the Ministry for sanction and gazette notification. It is stated that the Ministry approved the same in the year 2010 and it was notified in the Gazette GSR No.862(E) dated 28.10.2010. According to the management the cadre restructuring orders implemented in Cochin Port Trust w.e.f.28.10.2010 have benefited not only the Class I Officers but junior officers/officials have also been elevated in the resultant exercise thereof. According to the management the working conditions or promotional opportunities of Class III and Class IV eligible employees have not been adversely affected due to the introduction of cadre restructuring of officers and new recruitment, seniority and promotion Regulation. They have also stated that the main objective of the cadre restructuring exercise was to address the anomalies in the cadre of officers in all the major ports and to integrate the isolated posts in the officers cadre with the main stream so as to bring about a fair degree of opportunity in the cadre of officers in all the major ports and to rationalize and streamline the Recruitment, Seniority and promotion procedures with a view to have a progressive human resource policy.

26. From the contentions of the management it is evident that the proposal for cadre restructuring and the implementation of the same in accordance with the proposal approved and accepted by the Ministry and as notified in the gazette vide GSR No.862(E) dated 28.10.2010 was with the laudable objective of the best interest of the management. The cadre restructuring procedure was implemented by the management strictly in accordance with the rules and regulations and after obtaining sanction and approval from the Ministry. There is no evidence to prove that as a result of the implementation of the cadre restructuring proposal by the management, the union or any of its members were adversely affected. As already stated in order to have efficient man power at the Class I level and to lead the

institution to meet the future prospects it is necessary to have efficient persons in the Class I level. Therefore it cannot be held that there is any illegality or impropriety on the part of the management in implementing the proposal for cadre restructuring. Since the management has implemented the proposal for cadre restructuring strictly in accordance with the procedure and after obtaining the approval from the Ministry and after publication of the same in the official gazette, it cannot be held that the management has violated the rules and regulations while implementing the cadre restructuring proposal. Therefore the points for consideration are answered against the union and in favour of the management. Point Nos.4 and 5 are answered accordingly.

27. **Point No.(vi):-** In view of the findings aforesaid the union is not entitled to any of the reliefs as per the reference in this matter. The reference is answered accordingly.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 15<sup>th</sup> day of February, 2016.

K. SASIDHARAN, Presiding Officer

#### APPENDIX

**Witness for the union** - NIL

#### **Witness for the management**

MW1 29.10.2014 Smt. C. Premakumari

**Exhibits for the union** - NIL

#### **Exhibits for the management**

- M1 - True copy of the Report on the Pay Revision Committee for Port & Dock Officers – Recommendations on Cadre Restructuring issued vide letter No.A-29018/5/99-P.E.I dated 06.02.2004 by the Under Secretary to the Govt., Government of India, Ministry of Shipping, Parivahan Bhawan, Parliament Street, New Delhi to the Chairmen of all Major Port Trusts & Dock Labour Boards.
- M2 - True copy of the Model RSP Regulations of Major Ports issued vide letter No.PR-12012/1/04-PE-I dated 26.07.2004 by the Under Secretary to the Govt., Government of India, Ministry of Shipping, Parivahan Bhawan, Parliament Street, New Delhi to the Chairmen of all Major Port Trusts and the Managing Director, Indian Ports Association, New Delhi.
- M3 - True copy of the Minutes of Proceedings of Meeting No.8 of 2005-06 of Cochin Port Trust Board of Trustees held on 29.03.2006, Cochin Port Trust Board of Trustees meeting for the year 2005-06 on Agenda Item No.C4 held on 29.03.2006 and Cochin Port Trust Board of Trustees meeting for the year 2004-05 on Agenda Item No.C16 held on 09.03.2005.
- M4 - True copy of the letter No.PR-12012/7/2006-PE-I dated 15.07.2008 by the Under Secretary to the Govt. of India, Government of India, Ministry of Shipping, Road Transport and Highways, Department of Shipping, Ports Wing to the Chairman, Cochin Port Trust, Willingdon Island, Cochin.
- M5 - True copy of the Minutes of Proceedings of ordinary Meeting No.1 of 2009-10 of Cochin Port Trust Board of Trustees held on 08.05.2009 and Cochin Port Trust Board of Trustees meeting for the year 2009-10 on Agenda Item No.C6 held on 08.05.2009.
- M6 - True copy of the Gazette Notification issued vide No.GSR 862(E) dated 28.10.2010
- M7 - True copy of the Minutes of the 158<sup>th</sup> meeting of governing body of Indian Ports Association & 38<sup>th</sup> meeting of Annual General Body of Indian Ports Association held at New Delhi on 24.10.2013
- M8 - True copy of the forwarding letter by the Chief Administrative Officer(I/C), Indian Ports Association, New Delhi vide No.IPA/GAD/158<sup>th</sup> Meeting/122/2013 dated 06.11.2013 regarding Minutes of the 158<sup>th</sup> meeting of the Governing Body of IPA & 38<sup>th</sup> Annual General meeting of IPA held at New Delhi on 24.10.2013 to the Chairman, IPA & Cochin Port Trust.
- M9 - True copy of the letter No.PR-11011/1/2012-PE-I dated 05.12.2013 issued by the Under Secretary to the Govt. of India, Ministry of Shipping (Ports Wing) to the Chairmen of all Major Port Trusts.

नई दिल्ली, 2 जून, 2016

**का.आ. 1144.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ सं. 26/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/27/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 2nd June, 2016

**S.O. 1144.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Canara Bank and their workmen, received by the Central Government on 02.06.2016.

[No. L-12012/27/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

**Present:** Shri K Sasidharan, B.Sc., LLB, Presiding Officer

(Wednesday the 23rd day of December, 2015/02nd Pausha, 1937)

#### ID 26/2012

Workman	:	Smt T Syamala Kumari, Athira, S N Junction, Tripunithura – 682301.  By Adv. Shri Ashok B Shenoy
Management	:	The Deputy General Manager, Canara Bank, Circle Office, Chatappuram, CALICUT – 673002.  By M/s.Menon & Pai

This case coming up for final hearing on 22.12.2015 and this Tribunal-cum-Labour Court on 23.12.2015 passed the following:

#### AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour by its Order No-L-12012/27/2012-IR(B-II) dated 26.09.2012 referred this industrial dispute to this tribunal for adjudication.

2. The dispute referred for adjudication is:

“Whether the action of the management of Canara Bank in imposing the punishment of compulsory retirement on Smt T Syamalakumari for her unauthorized absence vide Order dated 30.09.2010 is justified? What relief the concerned workman is entitled to?”

3. After receipt of the reference order No.L-12012/27/2012-IR(B-II) dated 26.09.2012, summons was issued to the parties to appear in person and answer all the claims to substantiate their respective contentions. The workman and the management entered appearance through their respective counsels.

4. The workman filed claim statement contending as follows: She joined as a Clerk in the services of the management bank on 21.07.1978 at their Circle Office in Thiruvananthapuram. During July, 2007, while she was working in the Ernakulam South branch of the management bank she was transferred to Manjeri branch. As a result of the transfer the workman had to face several personal problems and she submitted a representation seeking modification of the transfer order. The management refused to entertain her request. Subsequently she preferred WP(C)

No.25882/2007 before the Hon'ble High Court of Kerala challenging the transfer order. The Hon'ble High Court dismissed the Writ Petition but allowed her to raise her grievances in an industrial dispute. She preferred a Writ Appeal which also ended in dismissal. The management issued a chargesheet dated 07. 12. 2007 alleging "willful disobedience to the lawful and reasonable orders of persons placed in authority" and "acting prejudicial to the interest of the bank". It was issued on the premise that she did not join for duty at the Manjeri branch on 15.10.2007. Subsequently the management appointed an enquiry officer who conducted a namesake enquiry and rendered a finding that the workman was guilty of the charges leveled against her. Thereafter the management imposed the punishment of compulsory retirement with superannuation benefits. Even though she had submitted a representation before the disciplinary authority, the earlier proposed punishment was confirmed by the authority. The workman raised the industrial dispute before the Assistant Labour Commissioner(central), Ernakulam. He could not arrive at a settlement and hence issued a failure report on 13.12.2012. According to the workman the punishment imposed by the management is illegal, unjust and unreasonable. The enquiry conducted by the management is only farce and namesake and no opportunity was afforded to the workman to substantiate her contentions. The action of the management is willful and in violation of the terms and conditions in the Bipartite Settlement. At any rate the punishment imposed is disproportionate to the allegations leveled against the workman. Therefore, the workman has requested to declare that the punishment of compulsory retirement with superannuation benefits imposed by the management as illegal, unjust and unreasonable and to reinstate her with full back wages, continuity of service and other benefits thereof.

5. The management filed written statement admitting that the workman joined the services of the bank on 21.07.1978. She was working in and around Ernakulam for about 27 years. The management issued the transfer order in a routine manner and there was no malafides on their part in issuing the transfer order. The workman did not join duty at the place of posting in spite of repeated instructions. Her absence from duty from 13.10.2007 to 10.11.2007 was treated as unauthorized one without leave. Therefore the chargesheet dated 07.12.2007 was served on her in accordance with Chapter 11, Regulation 3 clause (d) and (m) of the Canara Bank Service Code. The action on the part of the workman amounts to gross misconduct as per the Service Code of the management bank. The management appointed an enquiry officer, who conducted enquiry after following the principles of natural justice and affording sufficient opportunity to the workman to substantiate her contentions. Before imposing punishment by the disciplinary authority an opportunity was afforded to the workman for personal hearing. Against the decision of the disciplinary authority she moved before the appellate authority. The appellate authority concurred with the decision of the disciplinary authority. The punishment imposed by the disciplinary authority and affirmed by the appellate authority is just and proper. There is no malafides on the part of the management in imposing the punishment on the workman. They have requested to disallow the claim of the workman.

6. The validity of the preliminary enquiry was considered as the preliminary point. On behalf of the management MW1 was examined and Ext.M1 is the document marked. Thereafter the matter was posted for hearing on the preliminary point as to the validity of the enquiry.

7. At the time of hearing the workman filed a memo to the effect that she is not intending to proceed with the industrial dispute and that she is not pressing the relief claimed in the claim statement filed by her. The learned counsel for the workman has countersigned the withdrawal memo. In view of the withdrawal memo filed by the workman it is evident that the workman is not interested to have an adjudication of the dispute referred for adjudication in this case. Therefore there is no industrial dispute that remains to be adjudicated by this tribunal.

8. In the result it is held that there is no subsisting industrial dispute for adjudication by this tribunal. The award is passed accordingly.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 23<sup>rd</sup> day of December, 2015.

K. SASIDHARAN, Presiding Officer

#### APPENDIX

Witness for the workman - NIL

#### Witness for the management

MW1 08.01.2015 Shri S. Nandakumar

Exhibit for the workman - NIL

#### Exhibit for the management

M1 - Enquiry File.

नई दिल्ली, 2 जून, 2016

**का.आ. 1145.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ सं. 4/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.06.2016 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 2nd June, 2016

**S.O. 1145.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 02.06.2016.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

**Present:** Shri K Sasidharan, B.Sc., LLB, Presiding Officer

(Monday the 29th day of February, 2016/10th Phalguna, 1937)

### ID 4/2012

Workman	:	Shri V. Sukumaran, S/o Late Vasudeva Menon, Madhavam, Soorya Garden Chempukavu, Thrissur – 680020.  By Adv. Shri H.B. Shenoy
Management	:	The Chairman and Managing Director, Indian Bank, Head Office, 66, Rajaji Salai, Chennai – 600 001.  By Adv. Shri S. Easwaran

This case coming up for final hearing on 02.02.2016 and this Tribunal-cum-Labour Court on 29.02.2016 passed the following:

### AWARD

This is an application filed by the workman under Section 2A(2) of the Industrial Disputes Act, 1947.

2. The contentions of the workman in brief are as follows:

The workman was employed as a Clerk/Shroff in the management bank. He joined the service of the bank on 25.08.1986. During June, 2009 while he was employed at the Kunnankulam branch of the management bank a memo dated 20.06.2009 was issued through their Chief Manager, Vigilance Cell, Ernakulam Circle Office. As per that memo the management required the workman to submit explanation regarding the sanctioning of loans to his close relatives namely his wife, to Shri. Girishkumar and to Smt. Sreeja Girishkumar. The allegation is that the workman managed to sanction loan to the aforesaid three persons and thereby flouted the guidelines issued by the Head Office. The management has alleged that the workman misused his position as a staff member of the bank and enjoyed undue benefits by doing acts prejudicial to the interest of the bank.

3. The workman submitted an explanation dated 03.07.2009 denying the allegations in the memo and explained the true state of affairs. He has stated that his wife, nephew and nephew's wife were engaged in business and the loans were sanctioned with the sincere intention that substantial chunk of business would remain with the bank. The loans



were sanctioned by providing sufficient security by way of equitable mortgage of the property as additional security. The workman has stated that he has not intervened or influenced in any manner in order to sanction loans to the aforesaid persons. He would further state that the name of his wife as a loanee was added at the instance of the Branch Manager instead of extending the loan of more than ₹20 lakhs in the name of workman's nephew's wife. He would further state that he had no bad or adverse intentions or any ulterior motives in sanctioning the loan and that his actions are bonafide and genuine.

4. The workman has stated that without considering his explanation the management issued an Article of Charge on 04.12.2009 alleging that the workman colluded with the then Branch Manager and managed to sanction and availed three loans of ₹10 lakhs, ₹15 lakhs and ₹12 lakhs respectively to his wife, Sri.Girishkumar and Smt.Sreeja Girishkumar. In the charge memo it is stated that the workman has committed acts of misconduct prejudicial to the interest of the bank as per clause 5(j) of the Memorandum of Settlement on Disciplinary Action Procedure dated 10.04.2002. The workman submitted explanation to the memo of charges. He has denied the charges levelled against him. He has stated that without considering the explanation to the Articles of Charge the management ordered an enquiry by appointing Mr. N. Selvan, Chief Manager, Ernakulam Circle office as the Enquiry Officer and Mr.M.N. Philip, Manager, Ernakulam Circle office as the Presenting Officer. The enquiry officer conducted a farce and namesake enquiry and submitted his cryptic findings holding that the workman has committed the charges levelled against him.

5. On receipt of the findings from the enquiry officer the management provided the copy of the same to the workman and sought his submissions if any. The workman submitted his comments on the enquiry report. Thereafter the management imposed the punishment of 'compulsory retirement with superannuation benefits i.e., pension and/or Provident Fund and gratuity as would be due otherwise and without disqualification from future employment'. Thereafter the disciplinary authority confirmed the proposed punishment, against which the workman preferred an appeal before the appellate authority. The appellate authority dismissed the appeal preferred by the workman. Thereafter the workman submitted a Review Petition before the Chairman and Managing Director of the management and it was rejected by them. The workman preferred WP(C) No.6488/2011 before the Hon'ble High Court of Kerala challenging the punishment. The Writ Petition was disposed granting the liberty to the workman to raise industrial dispute for the same cause of action before the appropriate authorities. The workman preferred an application before the Assistant Labour Commissioner(Central), Kochi for the redressal of his grievance. The Conciliation Officer could not arrive at a settlement. Hence the workman preferred this application. According to the workman the punishment imposed by the management is illegal, unreasonable and unjust. His explanations were not considered by the management at every stage of the proceedings. The disciplinary proceedings were initiated with the preconceived notion that the workman has committed the misconduct as alleged by the management. The punishment imposed is illegal and against the clause in Bipartite Settlement. He has requested to hold that the enquiry is invalid and that the punishment is disproportionate to the charges levelled against him.

6. The contentions in the written statement filed by the management in brief are as follows:

The present application under Section 2A(2) of the Industrial Disputes Act, 1947 at the instance of the workman is not maintainable. On 20.06.2009 the management issued a letter requiring the workman to explain the reason why three loans were sanctioned to his wife, nephew and nephew's wife, without obtaining authority of higher officials since the Branch Manager had no power to sanction loans to the relatives of the staff. The workman submitted a reply dated 03.07.2009 to the effect that his intention was that the substantial business should remain with the bank and on that basis he has done the same. It was admitted that there was procedural lapses on the part of the Manager in sanctioning the loans before obtaining permission from the higher authority. The reply submitted by the workman was not satisfactory. Hence the management issued a memo dated 04.12.2009 to the workman. He has submitted an explanation dated 16.12.2009 to the chargesheet. His explanation was not satisfactory. Hence the management appointed an enquiry officer to conduct enquiry and submit report. Shri. N.Selvam, Chief Manager, Circle Office, Ernakulam was appointed as the Enquiry officer and Shri B.G. Nair, Manager, Circle Office was appointed as the presenting officer. The workman was given the choice of defence assistant and Shri. R. Ramesh, working as clerk at Chalakkudy branch was the defence assistant selected by the workman.

7. The enquiry officer conducted departmental enquiry after affording sufficient opportunity to the workman to substantiate his contentions and by following the principles of natural justice. The enquiry officer submitted finding on 08.06.2010. A copy of the enquiry report was given to the workman and called for his submission if any. The disciplinary authority concurred with the finding recorded by the enquiry officer and issued show cause notice to the workman as to why the penalty shall not be imposed in accordance with the Settlement of Disciplinary Action Procedure for workman dated 10.04.2002. Thereafter the disciplinary authority afforded opportunity of personal hearing to the workman and after hearing him the proposed punishment was confirmed and an order to that effect was passed.

8. Against that order the workman preferred an appeal before the appellate authority. The appellate authority considered the contentions of the workman and passed an order concurring with the disciplinary authority. Against that order the workman preferred Writ Petition WP No.6488/2011 before the Hon'ble High Court. The Hon'ble High Court

dismissed the writ petition without prejudice to the right of the workman to raise an industrial dispute in accordance with the provisions of the Industrial Disputes Act.

9. The workman intentionally suppressed/concealed the fact that the loanees were his wife and close relatives. The contention of the workman that the enquiry was conducted in a manner prejudicial to his interest, without affording reasonable opportunity and without following the principles of natural justice, is false and incorrect. The disciplinary authority as well as the appellate authority considered the contentions of the workman and imposed the punishment which is just and reasonable. The documents marked in the domestic enquiry reveal that there was suppression of material fact by Smt. Girija Kumari and other loanees. They have not disclosed their relationship with the workman. The documents marked in the enquiry reveal that a sum of ₹ 9.94 lakhs was transferred from the Over Draft account of Smt. Girija Kumari to the Savings bank account of the workman Shri. V. Sukumaran on 21.06.2008. So also a sum of ₹ 3 lakhs was transferred from the Savings Bank account of the workman to the OD account of Smt. Girija Kumari on 05.06.2009, the date on which the OD liability was adjusted. Management Witness No.2 examined in the domestic enquiry identified the sanction ticket issued to sanction the loan for wholesale business in textile of Smt. Girija Kumari. The enquiry officer has arrived at a finding that the workman deliberately concealed identity of Smt. Girija Kumari, as his wife and managed to obtain the loan in her name. The intention to play fraud against the bank by the workman is clear from the transferring of the loan amount to the Savings Bank account of the workman. The workman induced the Branch Manager for sanctioning the loan making him to believe that it was within his power and that the workman has suppressed his relationship with Smt. Girija Kumari. He has willfully suppressed material facts and managed to sanction loans in the name of his wife and close relatives. He has abused his position so as to make wrongful gain without disclosing the identity of Smt. Girija Kumari as his wife.

10. Further enquiry by the management revealed that the loans were sanctioned in the name of the wife and close relatives of the workman for the purpose of wholesale trade in the textile business and stationery item. But the borrowers were not available at the place of business. Moreover, no stock was available at the time of visit. So also proof regarding conduct of business such as bill book, stock register, account book etc. was not available at the business premises for verification. The loanees have not obtained permission from the local authorities or from the Sales Tax department for doing the textile business. Therefore it is evident that there was an attempt on the part of the workman to gain undue advantage by misusing his position as a workman in the bank. It is clear that there was an attempt on the part of the workman to get the loan irregularly sanctioned and it amounts to a serious dereliction of duty.

11. The punishment imposed on the workman is neither excessive nor disproportionate in the charges levelled against him. The management has requested to dismiss the claim of the workman.

12. After filing the written statement by the management the workman filed rejoinder reiterating the contentions in the application.

13. After affording sufficient opportunity to the parties to take steps and to produce documents, the validity of the domestic enquiry was considered as the preliminary point. On that aspect, on behalf of the management MW1 was examined and Ext.M1 is the document marked. As per the Order dated 22.01.2016 the domestic enquiry was found to be valid, proper and following the principles of natural justice. Thereafter the matter was posted for further steps if any and for further evidence. Subsequently the workman and the management side have not produced any additional evidence or documents. Heard the learned counsel appearing for both sides.

14. The points arising for consideration are:

- “(i) Whether the misconduct alleged against the workman is of such a nature that it requires deterrent punishment as awarded by the management?
- (ii) Whether the punishment imposed on the workman by the management is proportionate to the charges levelled against him?
- (iii) To what relief the workman is entitled to?”

15. Point Nos.(i) & (ii):- The workman has approached this tribunal by invoking Section 2A(2) of the Industrial Disputes Act, 1947. The workman joined as a Clerk/Shroff in the management bank on 25.08.1986. During June, 2009 he was employed at the Kunnankulam branch of the management bank, a memo dated 20.06.2009 was issued to him through the Chief Manager, Vigilance Cell of Ernakulam Circle requiring him to explain the reason for the sanctioning of loans by the Branch Manager to the workman's wife, to Shri. Girishkumar and to Smt. Sreeja Girishkumar who are his close relatives. According to the management the workman managed to sanction the aforesaid loans by flouting the guidelines issued by the Head Office and that he had colluded with the Manager and availed the loans clandestinely and detrimental to the interest of the management.

16. It is stated that the workman has committed to the acts of misconduct by misusing his position as a staff member of the bank and thereby he has done acts prejudicial to the interest of the bank.

17. The workman submitted an explanation denying the allegations in the memo and explained the circumstances leading to the sanction and disbursement of loans to the aforesaid persons. The workman has stated that the initial proposal was to grant loans to Shri. Girishkumar and his wife and not to the wife of the workman. Subsequently at the instance of the Branch Manager, instead of extending loan of more than ₹ 20 lakhs in the individual name of the workman's nephew's wife, the name of workman's wife was added since they were doing business jointly. He has stated that the loans were sanctioned on personal security and also by offering collateral security by way of equitable mortgage. According to the workman the management has not considered the circumstances under which the loan was sanctioned. It is stated that the punishment imposed on the workman by the management was without appreciating the issue in the correct perspective. The workman has stated that the entire loan liability in relation to the three loans sanctioned aforesaid was discharged. The workman has stated that the impugned punishment is illegal, unjust, harsh, excessive and disproportionate to the facts and circumstances of the case. It is stated that the punishment was imposed without considering the past record and extenuating circumstances and in violation of Clause 19.12(c) of First Bipartite Settlement. The workman had unblemished service of 24 years with the management bank and earned good reputation. The workman has stated that the punishment is excessive, harsh and disproportionate.

18. The management has contended that they issued show cause notice dated 20.06.2009 requiring the workman to explain the circumstances under which three loans, one to his wife, one to his nephew and other one to his nephew's wife were sanctioned without obtaining permission from the higher officials. It is stated that the Branch Manager has no power to sanction loans to the relatives of the staff. The management has stated that before imposing the punishment they conducted a domestic enquiry and afforded sufficient opportunity to the workman to substantiate his contentions. After obtaining the enquiry report, copy of the same was provided to the workman and his submissions were called for and only after considering his submissions the management imposed the punishment. Thereafter he approached the appellate authority. The appellate authority concurred with the findings of the disciplinary authority. The management has stated that they imposed the punishment for the reason that the workman misused his position as a staff working under the management and to make undue gain without disclosing the identity of his spouse Smt. Girija Kumari.

19. The management has stated that there was serious dereliction of duty on the part of the workman. The learned counsel for the workman has submitted that the punishment imposed by the management is harsh, excessive and disproportionate. It is submitted that the management has not considered the factual state of affairs and the service records of the workman. The learned counsel for the management submitted that the charges levelled against the workman are grave and hence they have imposed the punishment.

20. The learned counsel for the workman referred to the Ruling reported in Federal Bank Ltd. Vs. General Secretary, Federal Bank Staff Union and Others 2006(2) KLT 434 and submitted that this Tribunal has got the powers to interfere with the punishment that if it is found that the punishment imposed is shockingly disproportionate. In that Ruling the Hon'ble High Court has filed that "*Imposition of punishment – Held, de hors the powers under S.11A – Power of Labour Court or Industrial Tribunal to examine whether management has violated the terms of a binding settlement while imposing the punishment and to interfere with the punishment if so required*". The learned counsel for the workman also referred to another Ruling reported in Raghuraj Singh Vs. General Manager, Haryana Roadways, Hissar 2014 (10) SCC 301 Hon'ble Supreme Court has held that "*Industrial Disputes Act, 1947 – S.11A – Object of – Mandatory statutory duty cast on Labour Court to adjudicate dispute on merits on basis of evidence produced to examine proportionality of punishment imposed where alleged misconduct is proved*" and "*Labour Law – Domestic/Departmental Enquiry -- Doctrine of proportionality has to be followed by employer at the time of taking disciplinary action against employees to satisfy principles of natural justice and safeguard their rights – On facts held, applying doctrine of proportionality to instant case, order of termination was disproportionate to gravity of misconduct*".

21. The punishment imposed on the workman by the management is "compulsory retirement with superannuation benefits i.e., pension and/or Provident Fund and Gratuity as would be due otherwise and without disqualification from future employment".

22. The charge against the workman is that he managed to obtain loans in the name of his wife, nephew and nephew's wife without informing the matter to the higher authorities and without obtaining permission from them. It is stated that the workman misused his position as a staff under the management and induced the Manager to sanction the loan in the name of the aforesaid three persons. According to the management the action of the workman is a serious misconduct and requires deterrent punishment. The workman has not obtained permission from the higher authorities before sanctioning loans in the name of his wife, his nephew and nephew's wife. The loanees have not disclosed their relationship with the workman. The contention of the workman is that the loan applications were submitted before the management bank with the bonafide intention that the major portion of the business activity will be retained with the management and that it will be beneficial for the management bank. According to the management the workman misused his position as a staff under the management and managed to sanction the loans clandestinely and with sinister intention.

23. The learned counsel for the management referred to the Ruling reported in *Usha Breco Mazdoor Sangh Vs. Management of Usha Breco Limited and Another* (2008) 5 SCC 554. In that Ruling the Hon'ble Supreme Court has held "*Labour Law – Industrial Disputes Act, 1947 - S.11-A - Discretion available to Labour Court - Law laid down in Firestone Tyre and Rubber Co. of India (P) Ltd. case, (1973) 1 SCC 813 - Explained and further held, must be exercised judiciously and with restraint – Labour Court ought not substitute its own view merely because two views are possible on the basis of evidence on record – However, Labour Court can examine aspect of proportionality – Labour Court concluding that domestic enquiry was conducted in accordance with principles of natural justice and findings in the enquiry report were not perverse, yet it interfering with the management decision and holding that no charge was established against workmen – No fresh evidence was introduced by either side before Labour Court - Held, Labour Court's interference not warranted – Analogy of Law laid down on Civil Procedure Code, S. 96, also invoked – Civil Procedure Code, 1908 – S.96 – Administrative Law – Proportionality*".

24. In this case this tribunal held that the domestic enquiry conducted by the management was just, proper and by following the principles of natural justice and hence it is valid. After entering a finding to the effect that the enquiry is valid and proper, no additional evidence has been adduced or additional documents were produced to prove that the punishment imposed by the management is unjust or excessive or disproportionate. In the absence of any additional data to prove that the punishment imposed by the management is excessive or disproportionate there is no justification on the part of this tribunal to interfere with the punishment awarded. Moreover the management has stated the lonees were not doing any business in the premises and that there was transferring of the loan amount to the savings bank account of the workman. The aforesaid acts on the part of the workman is grave misconduct and requires deterrent punishment. It follows that the punishment awarded by the management is just, proper and reasonable in the circumstances of the case. Therefore the points for consideration are answered accordingly.

25. Point No.(iii):- In view of the Point Nos.(i) and (ii) the workman is not entitled to any relief claimed in this application. In the result the claim of the workman is disallowed. The point is answered accordingly.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 29<sup>th</sup> day of February, 2016.

K. SASIDHARAN, Presiding Officer

#### APPENDIX

<u>Witness for the workman</u>	-	NIL
<u>Witness for the management</u>		
MW1	20.02.2014	Shri N. Selvam
<u>Exhibit for the workman</u>	-	NIL
<u>Exhibit for the management</u>		
M1	-	Enquiry File.

नई दिल्ली, 2 जून, 2016

**का.आ. 1146.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 40/07) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.06.2016 को प्राप्त हुआ था।

[सं. एल-12011/156/2006-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 2nd June, 2016

**S.O. 1146.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/07) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 02.06.2016.

[No. L-12011/156/2006-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE****BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR****Industrial Dispute No. 40 of 07**

The Secretary ( Raj Deep),  
PNB Employees Union (UP),  
940/18 Radha Vihar Rawatpur,  
Kanpur.

**And**

The Senior Regional Manager,  
Punjab National Bank,  
Regional Office,  
Birhana Road,  
Kanpur.

**AWARD**

1. Central Government, Mol, New Delhi, vide notification no. L-12011/156/2006-IR(B-II) dated 30.08.07, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Punjab National Bank, Kanpur, not regularizing Sri Rajdeep and at the same time refusing him to employ w.e.f. 17.12.05 is legal and justified? If not, to what relief the concerned workman is entitled?
3. In short the case of the workman is that while he was studying in class IV, he was appointed as temporary employee in terms of RMO Circular dated 03.03.92. Regional office is not maintaining seniority for the appointment of part time and full time sweeper in terms of PD Circular No.50/88 dated Nov.7, 1988, in contravention with the provision of law. Bank appointed a sweeper named Shashi in terms of BP Settlement who was working as temporary employee at BO Jageshwar at Extn. Counter of B.O. Gwaltoli. Worker being the senior most and next to Shashi as well as in terms of circular no.50/88 dated 07.11.88. The union requested the bank to appoint the worker in terms of B.P. Settlement at Extn. Counter of B.O. Gwaltoli under the provisions of section 25G & H of the Act by their letter dated 09.10.04. The bank ignoring the seniority of Raj Deep appointed one PTS at B O Gwaltoli in the year 2004 who was not even in the service of the bank at any branch as a temporary employee in Kanpur, even for a day. The bank appointed number of juniors since 2004 ignoring the seniority of worker and still several juniors are working and fresh hands have been given regular appointment but Sri Raj Deep has been refused from the employment illegally and arbitrarily.
4. Therefore, the worker has prayed that by giving the benefit of bank's circular 50/88 dated 7.11.88 and also by giving benefit of section 25G and H of the Act direct the bank to appoint the worker with effect from 07.12.05 along with payment of salary from the same date.
5. The claim of the worker has been denied vehemently by the opposite party by filing written statement wherein it is alleged that on the basis of photocopies of mark sheet and School Leaving Certificate annexed with the claim statement, filed before ALC Kanpur, it is very much evidence that the workman has passed Class V in the year 1996 as per mark sheet and School Leaving Certificates, whereas as per circular no.12/85 dated 08.02.85 he is not eligible for appointment as part time sweeper. It is clearly mentioned in para 3 of the said circular that it has been further decided that part time appointment in the subordinate cadre hence forth should be confined to those who have not studied beyond 4<sup>th</sup> class/standard and even those who have no formal education may be considered. Worker is not entitled for the job as he has already passed class 5<sup>th</sup> and he does not fulfil the criteria for appointment in part time sweeper category. He has not worked for 240 days continuously in any of preceding 12 months, therefore, neither the provisions of the Act are attracted in present case nor he is otherwise entitled to claim regularization or absorption or appointment on permanent basis in the bank on facts or in law. Worker is the son of Sri Raja Ram who is full time permanent sweeper at BO Shastri Nagar, Kanpur and as and when he proceeded on leave, his son Sri Raj Deep undertook the job of sweeping / cleaning at Bo: Shastri Nagar, Kanpur.
6. On merit it has been denied by the bank that worker was appointed by the bank as temporary employee in place of full time sweeper rather he was engaged in leave arrangement whenever the full time sweeper proceeded on leave. As per instant guide lines only a rosters for recruitment of full time / part time sweeper is maintained and not for those who are engaged in stop gap arrangement during the leave of FTS/PTS. Smt. Shashi had been working at Bo Gwaltoli, Kanpur on consolidated basis on wages of Rs.740/- p.m. only on recommendation of the incumbent in charge of the branch as per bank rules and posted at Extension Counter Jal Sansthan. Thereafter she was elevated on 1/3<sup>rd</sup> scale basic

as per banks guidelines. It is denied that the worker was the senior most. The name of the worker does not figure either in the list of part time Sweeper or on consolidated basis. According to the terms of circular dated 07.11.88 read along with circular dated 28.12.79 the worker being 5<sup>th</sup> pass was over qualified and not eligible to be appointed as part time sweeper and the provision of the Act are not applicable in his case as he is not a retrenched employee.

7. Lastly it is alleged that the claim of the worker is liable to be rejected being misleading, misconceived and devoid of merit.

8. The bank has also filed copies of personal division circulars three in number vide document paper no.4/1. The worker along with his statement of claim has also filed photocopies of papers running from paper no.2/4-18.

9. The worker vide paper no.12/1 has also filed salary bills which are for the month of Feb.01, March 01, April 01, May 01, June 01 and November 01 pertaining to Branch Office Shastri Nagar, Kanpur.

10. Whereas worker has examined himself as WW1 in support of his claim, management examined Sri Anil Kumar Mishra as M.W.1 in support of their claim.

11. In his examination in chief worker has stated that in July 95 when he was engaged in the bank he was qualified up to class 4<sup>th</sup> and at that time Sri Agrawal was the branch manager who asked him to continue the work in the branch and he will made him permanent in the bank. At the time of his working he was being paid Rs.20 or 25/- per day as wages and said Sri Agrawal was fully satisfied with his work. He goes on to state that he continued his study on the advice of Sri Agrawal to the effect that in case he qualifies class 5<sup>th</sup> he will see that worker may get permanent employment in the bank. Apart from Mr. Agrawal, Sri Tiwari, Sri Mishra and Sri Satish Rai had been the managers of the branch with whom the worker had worked. His working hours in the branch was from 7.00 a.m. to 7.00 p.m. He moved an application for making him permanent in the service of the bank on 16.02.2004. Upon it he was advised to continue with the work at the branch and he will be given appointment on permanent basis. Some time he was paid his wages through vouchers and some time payment was transferred in his account. He also received bonus in the year 2005, which was Rs.488.29. He clarified the reason as to why he filed the present case against the bank which was that junior to him by name Rinku and Bablu were appointed by the bank after terminating his services.

12. In his cross examination worker Rajdeep has deposed that he was engaged by Sri Agrawal, Manager, PNB Branch Shastri Nagar in July 1995 and has done his work continuously up to 17.12.2005. He stated that right from 7.00 a.m. to 8.00 a.m. he worked for sweeping the branch, thereafter, in the absence of peon he was doing that work also. He stated that he was engaged on stop gap arrangement. He was not knowing as to what educational qualification is required for a sweeper. He has filed paper no.2/8 to show that he has passed class 4<sup>th</sup> thereafter on the assurance of Mr Agrawal, Manager of the branch for getting him appointment he has passed class 5<sup>th</sup> in 1996. It is wrong to say that he was terminated from the service because he had attained qualification up to class 5<sup>th</sup>, but his services were terminated because he has filed his case for appointment on permanent basis. He further deposed that from 95 to 05 he has worked for more than 240 days continuously in every calendar year. He has admitted that in paper no. 2/14-16 period of his work is shown as 38 days in 04 and 48 days in 05 which is correct.

13. Management has examined Sri Anil Kumar Mishra Senior Manager as W.W.1 who has stated in his affidavit that worker Sri Raj Deep son of Sri Raja Ram who was full time sweeper at the branch office and as and when he proceeded on leave his son present worker undertook the job of sweeping and he has not worked for 240 days continuously preceding 12 months from the date of his termination of service. He has never been appointed in place of full time sweeper as temporary employee rather he was engaged in leave gap arrangement. As per circular dated 3.3.92 issued by Regional Office Kanpur educational qualification of sweeper should to be beyond class 4<sup>th</sup>.

14. In his cross-examination he has deposed that worker was engaged in leave gap arrangement as part time sweeper and has not worked up to 240 days in any calendar year. He has moved his application for his appointment.

15. Both parties representative were heard at length and I have also gone through the entire record of the case carefully.

16. Worker has himself filed working details of worker prepared by the bank and filed before the ALC@ Kanpur, which clearly establishes that the worker has not worked for 240 days continuously in any of the calendar year of 1995 to 2005. Rather it appears from the working details that he has worked for 38 days in 04 and for 48 days in 05.

17. In the statement of claim the worker has alleged that bank has appointed number of juniors since 04 ignoring his seniority and also stated in his evidence that Rinku and Bablu were appointed by bank who were junior to him.

18. From the evidence and documents it is clearly established that worker has been engaged only on leave vacancy occurred due to absence of his father who was permanent employee as full time sweeper. As such worker cannot claim any right to the post being engaged under stop gap arrangement a sweeper. Besides this as per circular of Regional Office of the bank educational qualification for the post of sweeper is up to class 4<sup>th</sup> pass and admittedly during the course of his engagement he has passed class 5<sup>th</sup> thus he became over qualified for the post of sweeper.

19. Therefore, on the basis of above discussions, my finding is that as the worker was working against leave vacancy in stop gap arrangement it cannot be said that he was working as temporary employee against any permanent vacancy of sweeper, therefore, his services cannot be regularized in any manner whatsoever. Besides this there is no necessity for giving the benefit of notice or notice pay in lieu of retrenchment compensation as from the evidence it is clear that he had never completed 240 days of continuous service preceding 12 calendar months from the date of termination of his services or refusing employment by the bank.

20. Accordingly reference is decided against the worker and in favour of the management holding that the worker cannot be held entitled for the relief claimed by him in his claim statement.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 2 जून, 2016

**का.आ. 1147.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 21/08) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/199/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 2nd June, 2016

**S.O. 1147.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/08) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Bank of India and their workmen, received by the Central Government on 02.06.2016.

[No. L-12012/199/2007-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR

#### Industrial Dispute No. 21 of 2008

Sri Khem Chand S/o of Sri Bhagwan Das  
House No. 31/62, Rawli,  
Agra (U.P.)

**And**

The Zonal Manager,  
Bank of India,  
Zonal Office,  
1<sup>st</sup> Floor, Jiwan Prakash,  
Sanjai Place,  
Agra.

#### AWARD

1. Central Govt. Mol, New Delhi vide notification No. L-12012/199/2007-IR (B-II) dated 2.2.08 has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Zonal Manager, Bank of India, Agra, in terminating the services of Sri Khem Chand driver with effect from 18.08.06 is just fair and legal? If not to what relief the workman concerned is entitled to?

3. Case of the worker in short is that the Regional Manager of the Bank is the appointing authority in respect of award staff and subordinate staff in the year 1991. The worker was engaged as driver of the bank on 10.01.91 by the Regional Manager to drive the bank's vehicle No. UMW 9345. The worker continued to work as driver till 18.08.06, when the services of the worker were dispensed with by the bank in an arbitrary manner without showing any cogent reasons and without complying with the provisions of section 25F of the Act inasmuch as at the time of dispensation with the service of the worker neither he was paid any notice, notice pay or retrenchment compensation. During the

period of his engagement he had completed 240 days of continuous service preceding 12 months from the date of his removal from service. Therefore, the termination of the service of the worker is bad in law and he is entitled to be reinstated in the service of the bank with full back wages and continuity of service.

4. The opposite party has refuted the claim of the worker on a number of grounds inasmuch as the worker is not a workman within section 2 (s) of the Act; the answering bank is a public sector bank and it has to strictly follow the recruitment rules, regulations and directions issued by Government from time to time. It is also alleged that the bank has neither appointed the worker nor has terminated his service. Bank has also denied that the worker at any point of time was appointed as driver to drive the bank's car. No service rules are applicable on the worker and the bank has no disciplinary control over the worker. The worker had never been paid any wages by the bank. The worker had never gone through the selection process. Therefore, the claim of the claimant is devoid of any merit and is liable to be rejected.

5. Worker has not filed rejoinder in the case.

6. Worker Khem Chandra has examined himself as W.W.1 and the management has examined V. Kurian as M.W.1.

7. Worker has filed two documents in original and no documentary has been adduced by the management.

8. Heard party's representatives at length and perused records of the case.

9. Worker W.W.1 Khem Chandra has stated on oath that he was engaged by Sri S. K. Mathur of Bank of India in 1992 as driver and he also performed the work of placing records of the bank from one table to another. He was driving bank's car no. UP-80-AD-469 Esteem and some time bank's cash van also.

10. Paper no. 5/8 was issued to him at the time of curfew and paper no.5/9 is curfew pass. He was receiving wages through vouchers and he was not given any appointment letter and also he was not given any notice or retrenchment compensation at the time of dispensation of his services by the bank. He had worked continuously in the bank during the period 1992 to August 2006 and was receiving wages at Rs.5000/- per month and sometimes Rs.6000/-.

11. In his cross-examination he has stated that he has not been appointed through prescribed procedure. He has further admitted that if a senior officer is given a car he is entitled to receive driver allowance. He further deposed that he does not know whether he has driven the car of Mr. Mathur in personal capacity and has no concern with the bank. But Mr. Mathur gave him payment through voucher but he has not filed any such vouchers.

12. M.W.1 manager of the bank has stated on oath that driver is appointed through prescribed procedure by calling the names from the employment exchange. Khem Chandra has never been appointed through prescribed procedure nor had worked as casual worker. There is no record of payment made to the worker. Zonal Manager is given allowance and if he wishes he can appoint driver in personal capacity which has no concern with the bank. Paper no. 5/8 appears to be forged as it is typed in English and blank columns are filled in Hindi.

13. From perusal of evidence it appears that even worker has stated that he does not know whether he was appointed in personal capacity by manager of the bank or not and M.W.1 V. Kurian has stated that Zonal Manager is given allowance and if he wishes he can take the services of driver in personal capacity.

14. As far as the documents filed by the worker, he himself has admitted that these documents have been issued at the time of curfew.

15. Besides this he has not filed any documents or voucher through which at any point of time he had received wages from the bank nor has summoned any register or voucher in which his payment is endorsed, while M.W.1 has stated that there is no such record in the bank.

16. One more aspect is necessary to mention that worker is not sure of his wages as he has stated that he was receiving Rs.5000/- per month and sometimes Rs.6000/-. It can only happen in the case of the driver appointed in the personal capacity of a Manager of the bank.

17. Worker Khem Chandra has failed to prove that he was ever engaged by the bank as driver and that he ever had received wages from the bank through vouchers.

18. Therefore, on the basis of analysis of facts and evidence of the case it is held that the services of the worker had never been retrenched by the bank as such he is held entitled to no relief.

SHUBHENDRA KUMAR, Presiding Officer



नई दिल्ली, 2 जून, 2016

**का.आ. 1148.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 38/06) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/147/2005-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 2nd June, 2016

**S.O. 1148.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/06) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Canara Bank and their workmen, received by the Central Government on 02.06.2016.

[No. L-12012/147/2005-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

#### Industrial Dispute No. 38 of 2006

In the matter of dispute between-

Sri Sudhir Kumar Gupta,  
Son of late Radha Krishna Gupta,  
Mohalla Mohan,  
House No.0737, Chitra Gupta Colony, Ganda Nala,  
Kasganj, Etah.

**And**

The Deputy General Manager,  
Canara Bank,  
Centre Point,  
Aligarh.

#### AWARD

1. Central Government, Mol, New Delhi, vide notification no.L-12012/147/2005-IR(B-II) dated 24.5.06, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Canara Bank in terminating Sri Sudhir Kumar Gupta son of late Radha Krishna Gupta from service with effect from 28.1.05 is legal and justified? If not to what relief the workman concerned is entitled to?

3. In short the case of the worker is that he was appointed at the post of Daftary as daily rated worker on 03.08.2000 at branch office Bhargain District Etah and in this way his total service period is more than 4 yrs four months. It is alleged by the claimant that by way of adopting unfair labor practice he was removed from the service of the bank. The worker made repeated representation for regularizing his service but the said act of the worker was disliked by the branch manager and he started in search of some opportunity to remove him from the service of the bank. On 03.01.05 the branch manager orally directed the worker to contact with the Manager Regional Office, where the branch manager informed the worker that till date no orders have been received. He remained continuously in touch with the branch and on 22.1.05 branch manager informed the worker that orders have been received that you are permitted to joint your duties with effect from 24.01.05. On 28.01.05, the worker was called by the manager and he orally informed that his services stands terminated and he is not required to attend his duties and that a sum of Rs.740/- being wages have been deposited in his account. It is alleged that the action of the branch manager is arbitrary, illegal and unfair inasmuch as he was neither given any notice, notice pay or retrenchment compensation at the time of termination of his service. The action of the bank is also in violation of rules of natural justice and unfair labour practice.

4. Accordingly he has prayed that the action of the bank in terminating his service be declared illegal, unjust and unfair and he be directed to be reinstated in the service of the bank with full back wages, continuity of service etc. etc.

5. The worker along with his statement of claim has also filed 14 documents per list dated 12.06.06, relevancy of the same will be examined at the appropriate stage.
6. The opposite party bank has filed written reply against the claim petition of the worker vehemently denying the averments of the claim petition on a number of grounds i.e. that the claimant was empanelled a daily wager by the bank for Etah district to meet the exigencies and he was never appointed by the bank. He was allotted to Burgain branch and was being engaged as such by the branch. On joining of regular incumbent he was relieved by the branch. The claimant was engaged purely on temporary basis to meet the exigencies as and when required. His engagement was for a specific work and for specified period. When the work entrusted to him was completed his engagement automatically came to an end and non renewal of the same is not retrenchment. Since the worker continues to be in the panel of daily wagers the question of termination of his services or compliance of provisions of section 25F of the Act does not arise. From the reply of the bank it is also clear that the bank had not denied the continuous working of the worker except saying that the worker continues to be in the panel of daily wagers the question of termination of his services or compliance of provisions of section 25F of the Act does not arise. It is also alleged by the bank that in the facts and circumstances of the case there was no need of compliance of the provisions of section 25F of the Act.
7. Apart from the above the bank has simply given a detail procedure of recruitment process for appointing regular and permanent employees with which the workers case has no concern as admittedly he was engaged by the bank on need basis and his services came to an end by efflux of time on the expiry of exigency of work, under these circumstances it is not a case where requirement to comply with the provision of section 25F of the is must.
8. On the basis of above, it has been prayed that the reference be answered against the worker.
9. Worker has also filed rejoinder but nothing new has been mentioned therein except reiterating the facts already pleaded in the claim petition.
10. Worker has filed original pass book vide paper no.17/1.
11. Bank also has filed 7 documents vide paper no.14/1 which are in the nature of correspondence between worker and bank.
12. Whereas worker has examined himself as W.W.1, opposite party has examined Sri Vinod Kumar, M.W.1 and Sri Anand Kumar as M.W.2.
13. I have heard the arguments of the contesting parties at length and have perused the record carefully.
14. W.W.1 Sudhir Kumar in his evidence has stated that he was appointed on 03.08.2000, as daily wager at branch bhargain in District Etah, and he was also doing the work of daftary. He worked for 4 years and four months and getting payment as daily wager. When a vacancy of sub staff occurred he applied for the same on 27.07.2000 and he started working with effect from 03.08.2000. He raised his demand for his remuneration before the authorities of the bank the same was ignored then he submitted repeated representations. He has worked for 240 days. On 28.01.2005 his services were terminated and Rs.740/- was transferred in his account as his wages. He has filed original pass book. He has also filed photocopies of representations and pass book through list paper no.2/8 which are paper no.2/9-35 and has also filed original pass book through list 17/1 which is paper no.17/2-17.
15. From perusal of his pass book it appears that this pass book account was opened on 01.09.2000, wherein entries of payment of wages made for the period 01.09.2000 to 28.01.05.
16. Management has also filed request letters of worker through list paper no.14/1 which are paper no.14/1-1 to 14/1-6, which also reveals that the worker worked as daily wager and requested to absorb him a permanent sub-staff but there is no such document filed by either side to establish that worker was ever absorbed as sub-staff.
17. M.W.1 Sri Vinod Kumar has also stated in his evidence that worker was engaged against leave vacancy but in his cross-examination he has admitted that worker was engaged as daily wager near about August 2000 and he was paid his wages at the end of the month as daily wager. He further admitted that he was given one or two days gap after his working of 90 days and again he used to be engaged as daily wager. He further admitted that he was being paid wages as daily wager and it can be established through payment voucher when gap was given. He further admitted that no such voucher on record. He was asked a question whether services of worker were terminated arbitrarily on 28.01.05, to which the answer of the witness is given as service of worker were terminated following the established policy of the bank.
18. Likewise M.W.2 Sri Anand Kumar has given his statement stating that 6 daily wagers are engaged from the panel if regular employee proceeds on leave and has also admitted that name of Sudhir Kumar was called from employment office for his engagement as daily wager and his name was there in the panel prepared by the bank.
19. From the above evidence it is established that Sudhir Kumar Gupta was engaged by the bank as daily wager and his name also finds place in panel prepared by the bank for providing employment on daily wager in case any

regular employee proceeds on leave and in this way he worked as daily wager from August 2000 till 28.01.05. If evidence of M.W.I is admitted to the effect that the worker was given one or two days gap after 90 days which he could not prove for want of payment voucher. Therefore it can be very well established that the worker Sudhir Kumar Gupta had worked continuously for 240 days preceding 12 calendar months from the date of his termination i.e. 28.01.05. It was the duty of the bank to produce payment vouchers as the vouchers were in the custody of the bank and as they failed to produce the same adverse inference can be drawn against the management. It is also not disputed that the services of the worker has been terminated in breach of provision of section 25F of the Act, inasmuch as neither he was given any notice, notice pay or retrenchment compensation, therefore, termination of the services of the worker is held to be neither just, fair nor legal. Consequently worker is entitled to be reinstated in the service of the bank with full back wages and all consequential benefits.

20. Reference is answered accordingly.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 2 जून, 2016

**का.आ. 1149.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ़ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ सं. 21/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/27/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 2nd June, 2016

**S.O. 1149.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 02.06.2016.

[No. L-12012/27/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

**Present:** Shri K Sasidharan, B.Sc., LLB, Presiding Officer

(Friday the 29th day of January, 2016/09th Magha, 1937)

#### ID 21/2010

Workman	:	Shri. B. Sivadasan, S/o late Balakrishnan, Vilayil Puthen Veedu, Kallelibhagam P.O., Karunagappally, Kollam District.  By Adv. Shri R.V. Sujit Kumar
Management	:	The Assistant General Manager, (Kerala Region) Bank of Baroda, Regional Office, Vasudeva Buildings, T.D. Road, Ernakulam – 682011.  By M/s. B. S. Krishnan Associates

This case coming up for final hearing on 20.01.2016 and this Tribunal-cum-Labour Court on 29.01.2016 passed the following:

### AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, the Central Government referred the following industrial dispute to this tribunal for adjudication.

2. The dispute referred for adjudication is:

“(1) Whether the domestic enquiry conducted into the charges levelled against Shri B. Sivadasan, Daftary was proper and conducted in accordance with the principles of natural justice? (2) Whether the quantum of punishment awarded to the workman was proportionate to the misconduct committed by him?”

3. After receipt of the reference order No.L-12012/27/2010-IR(B-II) dated 02.06.2010, issued by the Ministry of Labour, Government of India, summons was issued to the workman and the management to appear and answer all material aspects relating to the dispute and produce documents to substantiate their respective contentions. The workman and the management appeared through counsels and submitted their pleadings.

4. The workman filed claim statement contending as follows:

The workman was employed as Daftary at the Mavelikkara branch of the management bank. While so, he was chargesheeted by the management bank on 09.01.2007 without issuing a show cause notice. The charges levelled against the workman are:

- 1) willful insubordination or disobedience of any lawful and reasonable order of a superior
- 2) committed breach of rules and thus committed an act prejudicial to the interest of the bank
- 3) unauthorizedly absenting to avoid arrest and have thus tarnished the image of the bank and thus committed an act prejudicial to the interest of the bank
- 4) neglected work as an employee of the bank
- 5) remained absent without leave and
- 6) incurring excessive debts.

5. On the same day the management ordered an enquiry against the workman. Mr. M.C. Jose, Senior Manager, Adoor branch of the management bank was appointed as the enquiry officer and Mr. C. P. Ananthakrishnan, Manager, Pathanamthitta branch as the management representative. The enquiry officer conducted a farce and namesake enquiry, without affording reasonable opportunity of defence, depriving the workman to prove his innocence. The enquiry officer has not followed the principles of natural justice while conducting the enquiry. The enquiry officer has submitted the findings dated 21.05.2007 holding that the workman is guilty of the charges levelled against him. Thereafter the management bank issued a notice dated 10.08.2007 to the workman intimating that he is guilty and that they are proposing to impose the punishment of dismissal from the service. Subsequently as per the final order dated 23.08.2007 the management imposed the punishment of ‘removal from bank’s service with superannuation benefits i.e., Pension and/or PF Gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time without disqualification from future employment’. Against that order the workman preferred an appeal before the appellate authority. The appellate authority concurred with the decision of the disciplinary authority.

6. The punishment imposed by the management on the workman is illegal, unreasonable, unjust, bad in law and against the terms of the Bipartite Settlements. The finding that the workman is guilty is based on an erroneous, perverse and biased action on the part of the management. He was punished on the basis of conjectures, surmises, mere suspicion and with no positive evidence against him. The workman is innocent and has not committed any act of misconduct as alleged by the management. The punishment imposed on the workman is harsh, excessive and disproportionate to the facts and circumstances of the case. His past record with the management bank has not been considered while imposing harsh punishment. The workman has requested to declare that the punishment of removal from services with superannuation benefits, imposed on him is illegal and unjust; to reinstate him with full back wages, continuity of service and other attendant benefits.

7. The contentions in the written statement filed by the management in brief are as follows:

The management has denied all the allegations levelled against them. They have stated that the workman was chargesheeted by the management under the following counts:

- a) Willful insubordination or disobedience of any lawful and reasonable order of a superior (5(e) of the bipartite settlement dated 10.4.2002).

- b) Breach of rules and thus doing act prejudicial to the interest of the bank. (5(j) of the bipartite settlement dated 10.4.2002)
- c) Remaining unauthorisedly absenting to avoid arrest and have tarnished the image of the bank and committed an act prejudicial to the interest of the bank (5(j) of the bipartite settlement dated 10.4.2002)
- d) Neglect of work as an employee of the bank, (7(C) of the bipartite settlement dated 10.4.2002)
- e) Absent without leave (7(a) of the bipartite settlement dated 10.4.2002)
- f) Incurring excessive debt (7(1) of the bipartite settlement dated 10.4.2002)

8. Out of the six charges levelled against the workman, three are gross misconduct and the remaining three are minor misconduct on his part. The management ordered domestic enquiry and the enquiry officer conducted the enquiry in a fair and judicious manner, following the principles of natural justice and by affording sufficient opportunity to the workman to substantiate his contentions. After obtaining the enquiry report, opportunity was afforded to the workman to make submissions on the findings of the enquiry officer. The disciplinary authority considered the submission of the workman and imposed the punishment of 'removal from banks' service with superannuation benefits'. Against that order the workman preferred an appeal before the appellate authority. The appellate authority considered all relevant aspects and concurred the findings of the disciplinary authority.

9. The workman was a habitual absentee from duty on loss of pay for more than 320 days from 24.05.1990 till June 2007. The management has stated that the enquiry officer has judiciously and independently analyzed the evidence and submitted his findings. The management has stated that the enquiry is conducted in a just and proper manner, following the principles of natural justice and that there is no illegality or impropriety in conducting the enquiry. On earlier occasions as per order dated 22.06.2004 and 17.03.2005 the workman was punished for financial indiscipline. The management has stated that the punishment imposed on the workman is proportionate to the charges levelled against him.

10. After providing sufficient opportunity to the parties to take steps and produce documents, the validity of the domestic enquiry was considered as the preliminary point. On that point the management side examined MW1 and the enquiry file was marked as Ext.M1. As per the Order dated 15.05.2014, this tribunal held that the domestic enquiry conducted by the management was invalid and vitiated as it is violative of the principles of natural justice and denial of reasonable opportunity.

11. Thereafter the matter was posted for taking further steps if any, to produce additional documents and to adduce further evidence. At this stage the management side examined MW2 and Exts.M1 to M35 were marked. After completing the evidence on the side of the management the matter was posted for the evidence of the workman. At this stage the workman and his counsel remained absent. Thereafter notice was issued to the workman it was returned 'unserved' with the endorsement that the "addressee left out of station". Hence the workman was called absent and set ex-parte. Heard counsel for the management.

12. The points arising for consideration are:

- “(i) Whether the quantum of punishment awarded to the workman was just, legal, proper and proportionate to the misconduct alleged against him?
- (ii) To what relief the workman is entitled?”

13. Point No.(i):- The workman herein Shri B. Sivadasan was employed as Daftary at the Mavelikkara branch of the management bank. The management bank issued the charge sheet dated 09.01.2007 against him. The charges levelled against the workman are:

- a) Willful insubordination or disobedience of any lawful and reasonable order of a superior (5(e) of the bipartite settlement dated 10.4.2002).
- b) Breach of rules and thus doing act prejudicial to the interest of the bank. (5(j) of the bipartite settlement dated 10.4.2002)
- c) Remaining unauthorisedly absenting to avoid arrest and have tarnished the image of the bank and committed an act prejudicial to the interest of the bank (5(j) of the bipartite settlement dated 10.4.2002)
- d) Neglect of work as an employee of the bank, (7(C) of the bipartite settlement dated 10.4.2002)
- e) Absent without leave (7(a) of the bipartite settlement dated 10.4.2002)

f) Incurring excessive debt (7(1) of the bipartite settlement dated 10.4.2002)

14. The management appointed an enquiry officer to conduct a domestic enquiry. The enquiry officer conducted the enquiry and submitted report holding that the workman is guilty of the charges levelled against him. The validity of the domestic enquiry was challenged by the workman. That was considered as a preliminary point. As per the Order dated 15.05.2014 this tribunal held that the domestic enquiry is vitiated and hence invalid.

15. In the claim statement the workman has stated that the punishment of 'removal from bank's service with superannuation benefits i.e., Pension and/or PF Gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time without disqualification from future employment' imposed by the management is not sustainable for the reason that the charges levelled against him by the bank are false, patently vague and lacking in material particulars. The workman has stated that at any rate the punishment is harsh and disproportionate to the allegations levelled against him by the management. He has stated that the evidence relied on by the management to prove that he is guilty of the charges levelled against him is tainted, partisan and without any legal basis. He has requested to declare that the punishment imposed on him by the management as illegal, unjust and to reinstate him with full back wages, continuity of service and other attendant benefits and to pay costs of this proceedings.

16. The management has contended that they have initiated disciplinary proceedings against the workman and he was chargesheeted for the misconduct on his part. Out of the charges alleged against the workman, three were gross misconduct and remaining three were minor misconduct. They have stated that the management appointed an enquiry officer who conducted domestic enquiry and submitted finding to the effect that the workman is guilty of the charges levelled against him. According to the management they have considered the submission of the workman before imposing the punishment of 'removal from banks' service with superannuation benefits'. They have stated that the appeal preferred by the workman before the appellate authority was dismissed confirming the findings of the disciplinary authority. According to the management the workman was habitually absent from duty while in service. They have stated that during the period from 24.05.1990 to June, 2007 he remained absent on loss of pay for more than 320 days. According to the management the misconduct alleged against the workman is grave and required deterrent punishment. They have stated that the punishment imposed on the workman is as per the provisions of the Bipartite Settlement. They have stated that the workman is not entitled to the relief claimed in the claim statement.

17. As stated earlier, as per the preliminary order dated 15.05.2014 this Tribunal has held that the domestic enquiry conducted by the management is vitiated and hence invalid. The management imposed punishment of grave nature on the workman mainly relying on the findings of the enquiry officer. While examined as MW2 the second witness on the side of the management has denied the suggestion that the workman had submitted leave application and requested leave from the management bank. MW2 has stated that the police came to the bank and arrested the workman and at that time there were other customers in the bank. According to MW2 there was oral complaint against the workman to the effect that he misbehaved towards the customers. He has denied the suggestion that he is speaking falsehood to wreck vengeance against the workman.

18. Ext.M2 is copy of the attendance register of the Mavelikkara branch of the management bank for the period from 03.09.2006 to 03.11.2007. Ext.M3 is copy of the Order dated 17.03.2005 issued by the management to the workman. As per Ext.M3 the management has imposed stoppage of increment for six months with cumulative effect. Ext.M4 is copy of the letter issued by the Assistant General Manager of the management bank to Sub-Inspector of Police, Mavelikkara intimating the residential address of the workman. Ext.M5 reveals that the Senior Branch Manager of the Mavelikkara branch has intimated the Deputy General Manager of the management bank about the unauthorized absence of the workman. It also reveals that the workman was on loss of pay for 121 days from May 2006 to 26.04.2007. On previous occasions he was on loss of pay for 199 days. In Ext.M5 the Manager has explained in detail about the police cases and instances of salary attachment from the KSFE and Bank of Baroda Employees' Cooperative Society, in the name of the workman. Ext.M6 is copy of the letter issued by the Senior Branch Manager, Kollam branch to the Deputy General Manager of the management bank. Ext.M6 document reveals a cheque for ₹40,200/- issued by the workman was returned due to insufficiency of fund. Ext.M7 is copy of the letter dated 17.01.2007 issued by the Senior Manager, Mavelikkara branch of the management bank to the Judicial First Class Magistrate, Karunagappally intimating that the workman was on sick leave from 09.11.2006 to 11.01.2007. They also informed the Judicial First Class Magistrate that the workman is attending the bank from 12.01.2007. Ext.M8 is copy of the letter issued by the Judicial First Class Magistrate to the Branch Manager, Mavelikkara branch. Ext.M9 is the intimation given by the Senior Branch Manager, Mavelikkara branch to the Assistant General Manager, Regional Office, Ernakulam intimating that the workman was arrested by the police on 20.01.2007. Ext.M10 is copy of the arrest warrant issued by the Judicial 1<sup>st</sup> Class Magistrate, Karunagappally in the name of the workman. Ext.M11 is the copy of letter issued by the Senior Branch Manager, Mavelikkara branch to the Assistant General Manager, Regional Office, Ernakulam intimating the unauthorized absence of the workman. Ext.M12 is copy of the letter by the Sr. Branch Manager, Mavelikkara branch to the Assistant General Manager, Regional Office, Ernakulam intimating that the workman submitted casual leave application for three days from 23.01.2007 to 25.01.2007. In that the Manager suggested that the workman can be

permitted to join duty. Ext.13 is copy of the letter dated 27.01.2007 by the workman to the Manager, Bank of Baroda, Mavelikkara branch. In that the workman has stated that he had indebted to one Mr.Rajendran about two years ago and that he had repaid the amount in time. He has also stated that Mr.Rajendran trapped him in a case and on the basis of which he was arrested at 02:10 pm on 20.01.2007 and he was released on bail by 11:00 am on 22.01.2007. Ext.M14 is copy of another letter issued by the Senior Branch Manager, Mavelikkara branch to the Assistant General Manager, Regional Office, Ernakulam intimating that the workman has not reported for duty on 01.02.2007. It is noted in Ext.14 that the management bank received a fax message from the workman. Ext.M15 is copy of the letter dated 01.02.2007 by the workman to the Branch Manager, Mavelikkara. In that workman was stated that a false case was foisted against him by Mr.Rajendran and in that he was trapped and arrested by the police and released on bail on 22.01.2007. As per that letter he sought permission to join duty. Ext.M16 is copy of the letter by the Senior Manager (HRM), Regional Office, Ernakulam to the Senior Branch Manager, Bank of Baroda, Mavelikkara. As per that letter the Senior Manager(HRM) has informed the Senior Branch Manager, Mavelikkara branch that the Assistant General Manager has permitted to allow the workman to join duty subject to production of necessary application for his absence from 23.01.2007. Ext.M18 is copy of the letter of the workman to the Manager of the Mavelikkara branch explaining the circumstances under which he issued the cheque and the subsequent settlement in presence of the Panchayath member. Ext.M19 is copy of the letter dated 12.01.2006 issued by the Special Deputy Tahsildar(RR), Kottayam to the Branch Manager, Mavelikkara branch. As per Ext.M19 the revenue recovery authority requested the Branch Manager to attach and recover from the salary of the workman @ `2,000/- per month. The total amount to be recovered as noted in Ext.M19 is `1,10,355/- + 12% + 5%. Ext.M27 is copy of the letter by the Chief Manager(Ops. C.S & O&M) of the management bank to the Assistant General Manager, Kerala Region intimating that a letter has been received from Shri. P. Venugopal, Advocate, Mavelikkara on behalf of his client Shri. R. Rajendran. Ext.M29 is copy of the letter by the workman to the Manager explaining the circumstances under which he had to borrow money in connection with the construction of his house and the difficulty experienced by him in repaying the loan availed from several persons. In that letter the workman has made an assurance that he will repay the debt as early as possible and inform the bank about the same. Ext.M30 is copy of the letter by the Manager, Mavelikkara branch to the Assistant General Manager, Regional Office, Ernakulam explaining the factual state of affairs in relation to the workman. In Ext.30, the Manager has requested to initiate appropriate action against the workman. Ext.M31 is copy of the medical certificate issued by the Medical Officer, Government Taluk Head Quarters Hospital, Karunagappally to the workman. In that the doctor has opined that the workman requires absence from duty for seven days from 16.11.2006. Ext.M32 is another letter by the Senior Branch Manager to the Assistant General Manager, Regional Office, Ernakulam.

19. The documents aforesaid marked on behalf of the management together with the evidence tendered by MW2 reveal that the workman was unauthorizedly absenting from duty on several occasions for one reason or other. He was regularly irregular in attending office without obtaining leave from the competent authority. It is true that on earlier occasions the workman was punished for his unauthorized absence from duty. He has not improved his attendance in the bank. The question for consideration is whether there was insubordination or disobedience of any lawful and reasonable order of superiors. Regarding this aspect it is seen that the workman was indebted to several persons. He has not shown any earnest effort to see that the liability is cleared by some way or other. Instead he remained absent unauthorizedly from the bank. His action amounts to willful disobedience of the lawful orders of superiors.

20. The next aspect to be considered is whether the workman has done any act prejudicial to the interest of the bank. In this regard except that he incurred debt disproportionately to his earnings there is no evidence to prove that he has done any act prejudicial to the interest of the bank. In such circumstance it cannot be held that the workman is guilty on that ground.

21. The other aspect to be considered is whether the workman has given any satisfactory explanation for his absence from duty. Copy of the letter issued by Shri. Venugopal, Advocate for the complainant in the cheque case filed by Shri. R. Rajendran reveals that the complainant in the cheque case and his counsel wanted to see that the workman is arrested while on duty. On this aspect it cannot be held that the workman has tarnished the image of the bank and committed any act causing prejudicial to the interest of the bank.

22. The other aspect to be considered is whether the workman has neglected the work as an employee of the bank. The evidence tendered by MW2 and documents relied on by the management reveal that the workman was not prompt in doing the work as a responsible employee of the bank. His action amounts to neglect of work as an employee of the bank.

23. The other two grounds alleged in the chargesheet are: absence without leave and incurring excessive debt. Regarding this aspect the evidence tendered by MW2 and the documents marked on behalf of the management reveal that the said charges are true and proved by the management. Therefore, it is evident that the workman is guilty for disobedience of the lawful and reasonable orders of superiors; that he was guilty of neglect of work as an employee of the bank; that he was absenting without leave and that he has incurred debt disproportionate to his earnings. The action

on the part of the workman is violation of the stipulations in the Bipartite Settlement. He is liable to be proceeded for the misconduct.

24. The management has awarded a punishment of 'removal from the service of the bank with superannuation benefits' to the workman. The meaning of the words "Removal from service" as seen from the 'Concise Law Dictionary' by Shri P. Ramanatha Aiyar, third edition reprint 2006 at page 1006 is as follows: "*Removal from service – The only distinction between dismissal proper and dismissal in the shape of removal from service was that the former ordinarily disqualified from future employment but the latter did not do so. The word 'dismissal' is comprehensive enough to include removal from service*".

25. In the decision reported in Raghbir Singh v. General Manager, Haryana Roadways, Hissar – 2014 (10) SCC 301 the Hon'ble Supreme Court has held that:

*"Industrial Disputes Act, 1947 – S.11A – Object of – Mandatory statutory duty cast on Labour Court to adjudicate dispute on merits on basis of evidence produced to examine proportionality of punishment imposed where alleged misconduct is proved"*.

26. In view of the dictum laid down by the Hon'ble Apex Court in the decision referred above and on the basis of the meaning of the word 'removal from service' as stated earlier it is seen that this tribunal is well within its powers in interfering with the punishment awarded by the management for the reason the punishment imposed by the management is disproportionate to the charges proved against the workman.

27. Considering the charges proved against the workman and the facts and circumstances of the case it has to be held that the punishment imposed by the management on the workman is excessive, exorbitant and disproportionate to the charges proved against him. Even though the workman remained absent and set ex-parte in the final stage of this proceedings, from the case file and the documents marked in this case, it is evident that the punishment imposed by the management is excessive and disproportionate. The point is answered accordingly.

28. Point No.(ii):- On this point the matter to be considered is what exactly will be the punishment to be imposed in proportion to the gravity of the misconduct committed by the workman. Considering the facts and circumstances of the case it is held that the punishment of stoppage of increment for three consecutive years with cumulative effect will be just and reasonable. The workman will not be entitled to any pecuniary benefits while he was out of service i.e., from the date of removal from the service by the bank till he rejoins duty. He will be treated as not on duty during that period. He will not be entitled to any service benefits during that period. The workman shall be allowed to rejoin duty on any day before the expiry of two months from the date of publication of the award in the Official Gazette, provided a request in writing is given by the workman to the management during that period. If he fails to report for duty within the time stipulated above, he shall be removed from the services of the bank in accordance with the punishment imposed by the bank at the first instance. The reference is answered accordingly.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 29<sup>th</sup> day of January, 2016.

K. SASIDHARAN, Presiding Officer

#### APPENDIX

##### Witnesses for the workman

- NIL

##### Witnesses for the management

MW1 16.04.2013

Shri Jose

MW2 27.10.2014

Shri K.R. Mohan Chand

##### Exhibits for the workman

- NIL

##### Exhibits for the management

M1 - Enquiry File.

M2 - True copy of the register of employment in the Mavelikkara branch of the management bank for the period from 03.09.2006 to 03.11.2007

M3 - Copy of the Order dated 17.03.2005 issued by the Senior Manager(HRM), Regional Office, Bank of Baroda, Thiruvananthapuram to the workman



- M4 - Copy of the letter No.RO:KER:HRM:28/309 dated 25.02.2008 issued by the Asst. General Manager, Regional Office, Bank of Baroda, Ernakulam to the Sub Inspector of Police, Mavelikkara Police Station
- M5 - Copy of the letter No.MAV/30/171 dated 26.04.2007 addressed to the Deputy General Manager, Bank of Baroda, Regional Office, Ernakulam by the Sr. Branch Manager, Bank of Baroda, Mavelikkara
- M6 - Copy of the letter No.KLM:HRM:39/120 dated 25.04.2007 addressed to the Deputy General Manager, Bank of Baroda, Regional Office(Kerala), Ernakulam by the Senior Branch Manager, Bank of Baroda, Kollam.
- M6(a) - Copy of A/c Payee cheque bearing No.0265888 dated 23.04.2007 for an amount of ₹40,200/- issued by the workman to Chungath Prince Jewellery and front page of Savings Bank Pass book issued to the workman
- M7 - Copy of the letter No.MAV/30/30 dated 17.01.2007 addressed to the Judicial 1<sup>st</sup> Class Magistrate, Karunagappally by the Sr. Manager(Acting), Bank of Baroda, Mavelikkara branch
- M8 - Copy of the letter No.63/06 dated 10.01.2007 addressed to the Branch Manager, Bank of Baroda, Mavelikkara by the Judicial 1<sup>st</sup> Class Magistrate, Karunagappally
- M9 - Copy of the letter No.Mav/Stf/30/36 dated 20.01.2007 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Senior Branch Manager, Bank of Baroda, Mavelikkara branch
- M10 - Copy of the Warrant of Arrest dated 20.01.2007 issued by the Judicial 1<sup>st</sup> Class Magistrate, Karunagappally against the workman.
- M11 - Copy of the letter No.Mav/Stf/30/31 dated 17.01.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Senior Branch Manager(Actg), Bank of Baroda, Mavelikkara branch
- M12 - Copy of the letter No.Mav/30/43 dated 27.01.2007 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Senior Branch Manager(Actg), Bank of Baroda, Mavelikkara branch
- M13 - Copy of the letter dated 27.01.2007 addressed to the Manager, Bank of Baroda, Mavelikkara branch by the workman
- M14 - Copy of the letter No.Mav/30 dated 01.02.2007 addressed to the Assistant General Manager, Bank of Baroda, Regional Office(K), Ernakulam by the Senior Branch Manager, Bank of Baroda, Mavelikkara branch
- M15 - Copy of the letter dated 01.02.2007 to the Manager, Bank of Baroda, Mavelikkara by the workman
- M16 - Copy of the letter No.RO:KER:HRM:27/205 dated 01.02.2007 issued by the Senior Manager(HRM), Regional Office, Bank of Baroda, Ernakulam to the Senior Branch Manager, Bank of Baroda, Mavelikkara.
- M17 - Copy of the letter No.Maveli/Stf./25/114 dated 16.03.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office(K), Ernakulam by the Senior Branch Manager, Bank of Baroda, Mavelikkara branch
- M18 - Copy of the letter dated 07.03.2006 addressed to the Manager, Bank of Baroda, Mavelikkara by the workman
- M19 - Copy of the letter dated 12.01.2006 issued by the Special Deputy Tahsildar(RR) to the Senior Branch Manager, Bank of Baroda, Mavelikkara by the workman
- M20 - Copy of the letter dated 16.12.2005 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Trivandrum by the Senior Branch Manager, Bank of Baroda, Mavelikkara
- M21 - Copy of the letter No.RO:KER:HRM:25/3109 dated 09.12.2005 issued by the Assistant General Manager, Regional Office, Bank of Baroda, Thiruvananthapuram to the Senior Branch Manager, Bank of Baroda, Mavelikkara branch.
- M22 - Copy of the letter No.Maveli/Stf./28/512 dated 01.12.2005 issued by the Senior Branch Manager, Bank of Baroda, Mavelikkara branch to the workman

- M23 - Copy of the leave availed particulars of the workman.
- M24 - Copy of leave application dated NIL addressed to the Manager, Bank of Baroda, Mavelikkara by the workman.
- M25 - Copy of the letter No.Maveli/stf./28/323 dated 20.09.2005 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Trivandrum by the Senior Branch Manager, Bank of Baroda, Mavelikkara branch.
- M26 - Copy of the Prohibitory Order No.SDT/KTM/4521/05-06 issued in the month of September, 2005 by the Special Deputy Tahsildar(RR), KSFE Limited, Kottayam to the Manager, Bank of Baroda, Mavelikkara.
- M27 - Copy of the letter No.HO:CS:98:808 dated 25.05.2006 issued by the Chief Manager (Ops. C.S. & O & M.), Customer Service Dept., Head Office, Suraj Plaza Bldg., Sayajigunj, Baroda to the Assistant General Manager(Kerala Region), Bank of Baroda, Regional Office, Ernakulam.
- M28 - Copy of cheque bearing No.426855 dated 16.05.2006 for an amount of ₹25,000/- drawn in favour of Shri. S. Satheendran by the workman.
- M29 - Copy of the letter dated 05.06.2006 addressed to the Manager, Bank of Baroda, Mavelikkara by the workman.
- M30 - Copy of the letter No.MAV/ADV/30/354 dated 16.11.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Manager, Bank of Baroda, Mavelikkara branch.
- M31 - Copy of the Medical Certificate dated 16.11.2006 issued by the Civil Surgeon, Government Taluk Head Quarters Hospital, Karunagappally to the workman.
- M32 - Copy of the letter No.MAVELI/30 dated 23.11.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Senior Branch Manager, Bank of Baroda, Mavelikkara branch.
- M33 - True copy of the transactions made by the workman during the period from 04.05.2014 to 02.09.2006.
- M34 - True copy of the transaction enquiry details report maintained by Bank of Baroda, H.O.:Mandvi, Baroda for the period from 04.02.2005 to 02.09.2006 in respect of the workman at the Mavelikkara branch.
- M35 - Copy of the request for loan dated 28.07.2005 submitted by the workman to the Assistant General Manager(Kerala), Bank of Baroda, Regional Office, Trivandrum.

नई दिल्ली, 3 जून, 2016

**का.आ. 1150.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रिलायंस नेक्स्ट लिंक प्राइवेट लिमिटेड, सब्सिडियरी ऑफ रिलायंस कम्युनिकेशन प्राइवेट लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 58/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-40012/04/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1150.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 58/ 2013) of the Central Government Industrial Tribunal-Cum-Labour-Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Reliance Next Link (P) Ltd., a subsidiary of Reliance Communication (P) Ltd. and their workman, which was received by the Central Government on 03.06.2016.

[No. L-40012/04/2012-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****PRESENT : RAKESH KUMAR, Presiding Officer****I.D. No. 58/2013**

Ref.No. L-40012/04/2012-IR(DU) dated 14.08.2013

**BETWEEN :**

Sri Gulab Chandra Shukla  
33 A/8, Kamalarnav Kunj, Near Singh Highway,  
Petrol Pump, Chak, Mundera, Begumsarai  
Allahabad

**AND**

1. The HR (Network) M/s Reliance Next Link (P)Ltd.,  
A Subsidiary of Reliance Communication (P) Ltd.,  
IInd Floor, Magnum Plaza,  
Eldeco Greens Gomti Nagar  
Lucknow
2. Sri Anil Kumar Singh, Area Manager  
M/s Reliance Next Link (P) Ltd.  
A Subsidiary of Reliance Communication (P) Ltd.  
Road Near Naithani Hospital Civil Lines  
Allahabad

**AWARD**

1. By order No. L-40012/04/2012-IR(DU) dated 14.08.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Gulab Chandra Shukla, Allahabad and the HR (Network)/Reliance Next Link (P) Ltd. Lucknow/Allahabad for adjudication.
2. The reference under adjudication is:  
“WHETHER THE ACTION OF THE MANAGEMENT OF RELIANCE COMMUNICATIONS LIMITED LUCKNOW IN RETRENCHMENT OF SRI GULAB SHUKLA W.E.F. 11.03.2011 IS JUST, FAIR AND LEGAL? WHAT RELIEF THE WORKMAN IS ENTITLED TO?”
3. As per the claim statement, the workman has stated in brief that he was appointed vide letter dated 4.8.2005, under the administrative supervision of the opposite party, before joining this service he was earlier working as Jr. Warrant Officer in the Indian Air Force for 21 years, the opposite party management has advertised vacancy in several news papers for ex-soldiers, and it was also notified that the job offered was of permanent nature.
4. The workman has asserted that he had left his service of Indian Air Force, and joined the opposite party establishment where he has worked for more than 5 years with devotion and sincerity, there was no complaint against him, but suddenly on 10.03.2011 he was telephonically informed by Sri A.K. Singh the then Cluster Manager, Allahabad that since he had completed 49 years of age he should relinquish the job, then the workman immediately sought information through Email and sent registered letters to Registered Office of the company but he did not get any reply; rather through another letter dated 12.3.11 his services were terminated.
5. The applicant has further stated that other junior employees Sri A.K.Ojha, Sri S.K.Shukla, Sri S.K. Tewari, Sri R.P. Singh, Sri Sushil Kumar Singh, Sri R.C. Pandey, Sri K.S. Pandey, Sri R.N. Shukla and Sri A.N. Dubey are still employed there, the opposite party employer has violated the legal provisions of I.D. Act., and the action of the opposite party is illegal and improper. It has also been stressed that after termination of the services of the applicant, several other persons namely Sri Manish Kumar, Sri Narendra Pandey and Sri Akhilesh Pandey have also been appointed, while there was no prior notice or retrenchment compensation or salary in lieu of notice given to the applicant, neither any information was sent to Government by the opposite party.
6. It has further been asserted in the claim statement that the applicant has worked from 11.8.2005 to 11.3.2011, worked continuously comprehensive for more than 240 days, even then direction in Section 25F of the I.D. Act., was not followed by the opposite party, the opposite party management has clearly violated the I.D. Act. Rules framed thereunder. With the above pleadings the applicant has prayed for his reinstatement along with back wages and consequential benefits.

7. As per list W11 several documents pertaining to the assignment of the workman with the opposite party, etc. have been filed. In support of the claim statement an affidavit W-12 dated 11.09.2015 has been filed in evidence.

8. Several notices were issued to the opposite parties through registered post during the tenure of my learned predecessor, and again in compliance of my directions as well. But none appeared in the court on behalf of the opposite party. On 01.06.2015 under these circumstances ex-parte proceedings were initiated against the management. Even thereafter on six occasions the case was fixed for argument, but any officer or AR of the opposite party did not appear in the court.

9. Arguments of the learned AR for the workman have been heard at length. Record has been perused thoroughly.

10. It is the case of the workman that he was appointed in M/s Reliance Next Link, a subsidiary of M/s Reliance Communications Private Limited vide appointment letter dated 04.08.2005 and he worked continuously w.e.f. 11.08.2005 to 11.03.2011 for more than 240 days in each year. It is also the case of the workman that his services have been terminated by the company vide their letter dated 12.03.2011 without any notice or retrenchment compensation, in violation of the provisions of the section 25 F of the I.D. Act. The workman has also come up with the case that the management terminated his services but retained many other persons junior to him; the names of the juniors still working have been given in the statement of claim.

11. In the present case the onus was on the workman to set the grounds for his claim that his services were terminated in violation of Section 25 F of the I.D. Act and the workman has discharged his burden and has proved by way of its affidavit that he got job vide appointment letter dated 04.08.2005 and he worked continuously w.e.f. 11.08.2005 to 11.03.2011 for more than 240 days in each year and his services had been terminated vide letter dated 12.03.2011 of the opposite parties; wherein though there is mention of notice pay in letter dated 12.03.2011 but there is no evidence of payment of same. The workman has specifically stated in his affidavit that his services were terminated without any notice or retrenchment compensation. The management has not turned up to rebut the facts stated by the workman in its evidence.

12. In view of the law laid down by Hon'ble Apex Court in (2006) 3 SCC 276 *State of U.P. vs. Sheo Shanker Lal Srivastava & others* the statement of the witness, having not been controverted would be deemed to be admitted. In the present case the workman has sustained his case of having worked for w.e.f. 11.08.2005 to 11.03.2011, approximately for six years in total by filing his affidavit and in view of non-filing of any written statement or affidavit by the management in rebuttal to controvert the workman's claim of statement, there is no reason to disbelieve the statement of the workman given on oath.

13. The workman has filed photocopy of relevant documents, in support of his claim, including his appointment letter, acceptance letter attendance status, termination letter etc.

14. Also, in 2004 (100) FLR 109 *State of UP & another vs. Presiding Officer, Labour Court, Agra & another* Hon'ble Allahabad High Court found no illegality or infirmity in the award given by the Labour Court; wherein the Labour Court held the order of termination as illegal and unjustified. In the said case the employers neither appeared nor led evidence before the Labour Court in support of their case; whereas workman examined himself and proved that he had worked as a clerk. Therefore, Labour Court granted relief of reinstatement with full back wages.

15. In the instant case, it is the case of the workman that he worked w.e.f. 11.08.2005 to 11.03.2011, approximately for six years continuously and in the absence of any rebuttal from the management, it is well proved that the workman had worked for more than 240 days in twelve calendar years preceding the date of alleged termination and his services has been terminated without complying the mandatory provisions of Section 25 F of the Industrial Disputes Act, 1947. The management has not turned up in spite of repeated registered notices. Since the notices sent to opposite party No. 1 were not received back in the office therefore the service upon the opposite parties is well presumed. However, the notices sent to opposite party No. 01 were received back with remark that "बिना पता बताए घर छोड़ कर गए". It is also noteworthy to mention here that the opposite parties appeared before conciliations and were well aware of Failure of Conciliations, therefore it was incumbent upon them to pursue the case; but they completely failed in doing so.

16. Therefore, in view of the facts and circumstances of the case, discussions made hereinabove and law pronounced by Hon'ble Apex Court and High Court, I am of the considered view that the action of the management of reliance next link (P) Ltd. subsidiary company of reliance communications limited Lucknow in retrenching the services of Shri Gulab Shukla w.e.f. 11.03.2011 is unjust, unfair and illegal; and accordingly, I come to conclusion that the workman is entitled for reinstatement with full back wages and continuity in service within 08 weeks of publication of the award, failing which, the back wages shall carry simple interest @ 6% per annum.

17. Award as above.

LUCKNOW  
25<sup>th</sup> May, 2016

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 3 जून, 2016

**का.आ. 1151.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट [संदर्भ सं. 12 (सी)/2004 107/2003] को प्रकाशित करती है जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/163/2003-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1151.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref. Case No. 12 (C) of 2004. 107 of 2003] of the Industrial Tribunal, Patna as shown in the Annexure in the Industrial Dispute between the management of Kshetriya Gramin Bank and their workmen, received by the Central Government on 03.06.2016.

[No. L-12012/163/2003-IR (B-I)]

RANBIR SINGH, Section Officer

**ANNEXURE****BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA****Reference Case No.- 12 (C) of 2004****107 of 2003****Between :**

The Chairman, Champaran Kshetriya Gramin Bank,  
Head Office, Motihari, Dist.- East Champaran ( Bihar )

**and**

Their workmen Sri Baidyanath Pandit

For the management : Sri Surendra Pathak, Regional Manager( Bank Representative) Sri Rajesh Kumar,  
Manager, Uttar Bihar Gramin Bank R.O. Motihari (North) (Bank Representative).

For the workman : Sri B. Prasad, President, Bihar provincial Gramin Bank Employees Association.

**Present** : Bipin Dutta Pathak, Presiding Officer, Industrial Tribunal, Patna.

**AWARD**Patna, the 14<sup>th</sup> March, 2016

By notification order No.- L-12012/163/2003-IR(B-I) New Delhi, dated- 31.10.2003 Govt. of India,// Bharat Sarkar Ministry of Labour/Shram Mantralaya, New Delhi referred under clause (d) of sub-section (1) and sub-section (2A) of section-10 of the Industrial Dispute Act, 1947 ( hereinafter to be referred to as ' the Act ' ) the following dispute between **The Chairman, Champaran Kshetriya Gramin Bank, Head Office, Motihari, Dist.- East Champaran (Bihar) and their workmen Sri Baidyanath Pandit** for adjudication to the Cent. Govt. Indus. Tribunal-cum-Labour Court, Dhanbad No.-1.

**SCHEDULE**

“(a) Whether the action of the management of Champaran Kshetriya Gramin Bank in conducting enquiries free or biased? (b) Whether the punishment of dismissal w.e.f. 22.03.2002 ordered to Sri Baidyanath Pandit is in proportionate to the charges framed is legal and justified? If not, to which relief Sri Baidyanath Pandit is entitled to?”

2. Since the reference was in the matter of conduct enquiries free or biased is to be looked into. So no separate has been passed to look into whether the enquiry was free biased or proper or not?

3. Thereafter a letter dated- 25.11.2003 was issued under signature of Ajay Kumar, Desk Officer. To the Chairman, Champaran Kshetriya Gramin Bank, Head Office, Motihari, Dist.- East Champaran ( BIHAR ) in which it has been asked from the Chairman whether he had any objection to transferred the case from C.G.I.T No.-1 Dhanbad to Industrial Tribunal, Patna or not?

4. Thereafter vide order dated- 12.03.2004 Central Govt. with drew the proceeding in relation to the said dispute pending for CGIT No.-1 Dhanbad and transferred the same to the Presiding Officer, Industrial Tribunal, Patna with a direction to proceed with the proceeding from the stage at which they are transfer to it and disposed of the case according to law. Thus the case was transferred to this tribunal.

5. Statement of claim has been filed on behalf of the workman ( before CGIT No.-1 Dhanbad ) is that the reference is split in two part. The first part deals with the enquiries whether the same was free or biased. Second part deals with the order of punishment of dismissal w.e.f. 22.03.2002 passed by the management against the workman. Whether the punishment of dismissal was in proportionate to the charges.

Workman was appointed in Champaran Kshetriya Gramin Bank as a Clerk-cum-Cashier w.e.f. 27.09.1980. He worked in different branches of the bank and was promoted to officer grade in the year 1984 but was capriciously reverted to clerical cadre in the year 1985 after the probation period was over. Workman took a leading role in the Trade Union activities. Charge sheet was issued and he was dismissed from the service of the bank and he was reinstated he was placed on the initial basic pay. He was denied his incremental benefits. He was placed under suspension vide order No.- H.O./25/2000/Sec/59 dated- 09.03.2000 without issuance of show-cause notice or a charge sheet prior to suspension. Explanation letter dated- 08.06.2000 was replied by him. Management issued a charge sheet dated- 16.08.2000 but no opportunity was given to the workman for replying those charges. Departmental enquiry was instituted and enquiry officer and presenting officer were appointed. Domestic enquiry was held on various dates.

Enquiry Officer held the enquiry in a most unfair and improper manner and did not furnished copy of the findings to the workman. Enquiry Officer was under constant pressure from the disciplinary authority. Entire proceedings of the Enquiry Officer suffers from unfairness and impropriety on the following grounds.

- (i) The workman was not given an opportunity to reply the charge as contained in the charge sheet.
- (ii) That the learned Enquiry Officer violated the principles of Natural Justice while conducting the enquiry.
- (iii) That the entire proceedings suffer from biasedness and manifests the one sided approach of the enquiry officer.
- (iv) That the learned Enquiry Officer failed to function as a quasi-judicial Authority while conducting the enquiry.
- (v) That the Enquiry Officer failed to supply a copy of his findings to the workman who was very much aggrieved due to the action of the management.

After conclusion of the enquiry proceedings. The Chairman who also happened to be the disciplinary authority issued a second show cause and finally dismissed the workman from the services of the bank vide order dated- 22.03.2002.

The workman preferred an appeal against the order of dismissal but no relief was given to the workman. He raised industrial dispute and the Asst. Labour commissioner (Central) Patna intervened in the matter and held conciliation proceedings but due to the rigid attitude of the management, the conciliation ended in failure. Ministry of Labour, Govt. of India, New Delhi referred the dispute for adjudication.

The action of the management in passing order of dismissal against the workman w.e.f. 22.03.2002 is not legal not justified on grounds mentioned:-

- (i) That the management failed to issue any show-cause/charge sheet to the workman prior to suspension.
- (ii) That the workman was not given opportunity to reply the charges as contained in the charge sheet.
- (iii) That the learned Enquiry Officer failed to supply a copy of the enquiry report to the workman.
- (iv) That the learned Enquiry Officer did not hold the enquiry fairly and properly.
- (v) That the findings of the learned Enquiry Officer suffers from perversity of findings.
- (vi) That the learned disciplinary authority did not apply his mind properly and formed his opinion on the basis of perverse findings.
- (vii) That the learned disciplinary authority failed to discharge his duties as a quasi-judicial authority and acted with closed mind, biased approach and ignored the principles of natural justice while passing the order of dismissal from the services of the bank.

It has been stated that workman is innocent and did not commit any misconduct.

Reliefs claimed is:- for setting aside the order of dismissal, direction to reinstate with full back wages w.e.f. 22.03.2015, direction to pay full salary and allowance for the period of suspension and to pay Rs. 10,000/- ( Rs. Ten Thousand ) as a cost of contesting the dispute.

6. Written statement has been filed on behalf of the management submitting point wise comment on statement of claim dated- 29.12.2003 of the dismissal workman. It has been stated that with regards to captioned subject and referred letter sent by Sri Baidyanath Pandit addressed to the Presiding Officer, central Govt. Industrial Tribunal No.-1, Dhanbad. Management has already forwarded comments to the Research Officer, Ministry of Finance, Govt. of India vide letter no.- HO/2003-04/CS/II/176, dated- 11.08.2003.

It has further been stated that concerned enquiries have always been conducted without any prejudice or bias. The punishment imposed on Sri Pandit is quite commensurate/ proportionate to the serious irregularities/misconduct including cash embezzlement committed by him.

Under the normal promotion process, he was promoted from clerk-cum-cashier to the post of Field Supervisor w.e.f. 01.08.1984. As per norms of the Service Regulation as well as the facts as contained in para-II of the promotion letter, he had to render his services satisfactorily as a probationer for 2 years w.e.f. 01.08.1984 to 01.08.1986. Probation period would be of 2 years and the promote would be confirmed on the promoted post of Field Supervisor, only if his services had been found satisfactorily during the probation.

During probation period Mr. Pandit was found involved in financial irregularities for an explanation vide letter no.- HO/10/85/PRS/989 dated- 25.07.1985 and explanation was called for from him. Explanation reply by him on 26.08.1985 was not satisfactory. There was provision to revert the probationers to the substantive post on being found their services unsatisfactory. Mr. Pandit was reverted to post of clerk-cum-cashier vide letter no.- HO/18/85/PRS/1111, dated- 09.09.1985.

Mr. Pandit made his appeal on 23.09.1985 and finally appeal was rejected.

Mr. Pandit never took any active part in any trade union. He did not amend his behaviour and after being reverted to the post of clerk-cum-cashier, he was again found involved in gross misconduct of misappropriation of cash at Bakhari Bazar branch for which he was suspended and charge sheeted vide letter No.- HO/14/89/CS/337 dated- 03.07.1989. He refunded the defrauded money and submitted his explanation on 01.08.1989 which was not satisfactory and the departmental enquiry was set up on 07.08.1989. After conducting the departmental enquiries as per the principles of natural justice, inquiring officer submitted his findings to Head Office on 18.02.1991. Second show-cause memo was issued proposing the gross punishment 'Dismissal' on 05.10.1991. He replied the 2<sup>nd</sup> show cause and was heard personally and final order imposing punishment of dismissal from the bank was issued on 13.12.1991. He made an appeal dated-09.01.1992 and appellate board taking lenient view he was reinstated in bank service at the initial stage of the pay scale.

Mr. Pandit accepted in writing the relief/terms conditions decided by the Appellate Board and was reinstated in service of the clerk-cum-cashier w.e.f. 09.07.1992. All the annual increments for which Mr. Pandit was entitled to, had been released / granted. Mr. Pandit aggrieved with the decision of the disciplinary authority and appellate board, filed a writ petition CWJC No.- 11698 of 1998 before Hon'ble Patna High court which was dismissed. Having got punished twice on two different occasions by the management and also with the dismissal of the writ petition filed by the workman. Mr. Pandit did not take lesson / care to work in accordance with rules and regulations honestly and faithfully and he again third time committed cash embezzlement of Rs 69,100/- ( Public money ). He was placed under suspension w.e.f. 09.03.2000. This action of the management was in accordance with rules and service regulations of the bank. Soon after suspension a memo letter no. Pra. Ka. /25/2000/ A.Sachi/151 dated- 08.06.2000 stating therein details of irregularities committed by him, was issued. Which replied on 18.07.2000. A memo of explanation had been issued and its reply dated-18.07.2000 was found unsatisfactory, hence the charge sheet letter and letter of appointment of inquiring officer to investigated into the charges, were issued on 16.08.2000. Inquiring Officer and presenting officer were appointed only after receiving clarification from Mr. Pandit.

During departmental enquiry, enquiry officer heard both parties and given proper and reasonable opportunities of the defence. Defence failed to disprove any one of the charges rather accepted them. Thus all the charges were found proved by the Enquiry Officer.

Charge sheeted workman was given proper opportunities of defence in the conducting departmental enquiries on various dates by the Enquiring Officer. The findings of the Enquiry Officer was made available to Mr. Pandit vide Pra. Ka. / 2001-02/ A. Sachi. / II / 54 dated- 06.02.2002 and was called for his comments which was replied by Mr. Pandit on 18.02.2002. Enquiry officer submitted his findings independently after hearing both the parties. Enquiry officer conducted enquiry proceedings according to the principles of natural justice. On 10.04.2001 in the presence of Sri Chandra Mohan Prasad, defence representative, himself accepted all the charges levelled against him, willingly, without any pressure and with healthy mind and understandings. The portion of the proceeding were signed by the all the

concerned. Findings of enquiry officer has been made available to Mr. Pandit after receiving his reply 2<sup>nd</sup> show cause memo proposing punishment of 'Dismissal' was issued. Mr. Pandit also replied this memo and was heard personally by the disciplinary authority. Defence failed in not proving the charges. Consequently taking into account previous records, gravity of charges etc. Mr. Pandit was finally awarded the punishment of 'Dismissal' from the Bank's service on 22.03.2002 for third time defalcation and serious misconduct. He preferred appeal, appellate authority dismissed the appeal. The reliefs desired by the workman were not considerable. Management was not inclined to make any conciliation. Even after working on a responsible post in the financial institution, Mr. Pandit has been committed cash embezzlement. He was reverted from field. Supervisor to subsequent post of clerk-cum-cashier in 1985. Again he committed cash embezzlement at Bakhari Bazar branch for which he was dismissed in 1991, he was reinstated in service by the appellate authority. His writ petition was dismissed on 09.03.1999. But third chance committed a voluminous fraud of public deposits at Sargatia branch for which he was finally dismissed in 2002. The appellate board also confirmed the findings and the order of dismissal by the disciplinary authority. Enquiry is free, without prejudice and the punishment of dismissal of 'Dismissal' from bank service awarded Sri Pandit is completely proportionate visavis charges.

7. Charge sheet was issued vide letter dated- 16.08.2000 in which it has been stated that at Sargatia branch workman while posted as clerk-cum-cashier as committed financial irregularities. There was 11 charges against him. Charge no.-1 is that withdrawal of Rs. 2000/- ( Rs. Two Thousand ) from the account of Awadh Sah and counter file was issued under his signature and entry was made in pass book and ledger but entry of cash deposit was not made and misutilised the money for his own purpose. Later on he deposited the said amount on 24.02.2000.

Charge no.-2 that is receiving eleven thousand cash on 18.11.1999 in the S.B. Account of Rajendra Sah he issued counter file made entry in cash deposit but that was not entered in respective register and misutilised the money for his own purpose. Later on he deposited the amounting in respective account on 28.02.2000.

Charge no.-3 is similar in respective of account of Sri Lal Babu Prasad. Charge no.-4 is the same in respect of account of Sri Kanti Sah. Charge no.-5 is respective of the account of Sri Jagarnath Sah. Charge no.-6 the related to the account of Sri Chandeshwar Singh. Charge no.-7 is related to account of Sri Kanti Sah. Charge no.-8 is related to amount of Sri Ayub Alam. Charge no.-9 is related to amount of Imamul Ansari and charge no.-10 is that he was relieved for election duty on 18.02.2000 at 3.00 P.M but on 30.02.2000, Sunday he illegally opened the branch and committed irregularities. The branch was closed on 19.02.2000 from 2.30 to 21.02.2000 and during that period Rs. 30,000/- ( Rs. Thirty Thousand ) was missing. Charge no.-11 is that he was punished twice and he did not amend him though even he was punished earlier.

8. It appears that seven witnesses were examined on behalf of the management and two witnesses examined on behalf of the workman.

9. Management witness no.-1 Sri Arun Kumar Sinha is branch manager of the bank at Motihari. He stated that in the year 1989 he was internal auditor of the bank. He audited bakhari branch and at that time Baidyanath Pandit clerk-cum-cashier was there. Misappropriation was detected in four saving accounts and two R.D account details of the accounts has been stated by this witness. Workman had taken the amount and has not deposited in the bank. In cross-examination he stated that he was not presenting officer nor enquiry officer for the occurrence of 1989. This reference case is related to dismissal of workman. When he was dismissed was not remembered by him.

Management witness no.-2 Sri Kanti Bhushan Mishra was also branch manager at Sargatia branch in 1997 to 2001 and posted as branch manager, at that time Sri Baidyanath Pandit was posted as cashier. Due to Parliamentary election in the year 2000 he was relieved for election duty. But after being relieved he opened the bank on one Sunday and mismanaged the documents on next date Monday. This witness opened the bank and found less amount in the chest. Villagers stated that Sri Baidyanath Pandit had arrived and have opened the bank. This facts was stated by this witness and informed to head office by written and telephonic and two officers arrived to investigate and many entries were found. During investigation Ext.-ME-1 to ME-60 were produced photo stat of which has been marked as Ext.-M/1 series. He stated about Ext.-ME-11,12,14,17,22,23 that amount was deposited by the customers to the workman but that was not deposited in the bank account. Similar amount of Ext.-ME-29 was not deposited. Further delinquent had withdrawn Rs. 15000/- as per Ext.-ME-28 while there was no such amount in the account. Similar delinquent had withdrawn the amount as per Ext.-ME-30.

In cross-examination he stated that three persons were posted at Sargatia branch. One was this witness, one was messenger. There is double custodian of the cash safe one key was retained by workman and another retained by this witness. He further stated that taking and giving of the key entered in key register. Key of main safe retained by workman.

He further stated that balancing of book and saving bank ledgers was maintained by this witness and delinquent. After business hour deposit and withdrawal slip was entered in supplementary register. That register, cash book, general ledger balance was maintained by delinquent. This witness used to check the register. About irregularities this witness



did not inform to higher authority because that irregularities did not appear before this witness. This witness used to sign on withdrawal slip and cash slip. He used to compare deposit and withdrawal slip by keeping into the ledger. Depositor used to pay the amount some time in bank and same time outside the bank. He himself had not seen delinquent by taking the amount and not depositing the amount. He further stated that domestic enquiry, the delinquent contested. He used to attend on all dates. Depositor were examined during enquiry. Fraud was detected during audit in February 2000. This witness remained in field duty for two – three days in each week. Safe was not broken, the amount was missing.

Management witness no.-3 Naveen Kumar Verma is Scale one officer in the bank and posted in head office. He joined head office on 08.12.1997. Sri Baidyanath Pandit joined on 27.09.1980 as clerk-cum-cashier. He was promoted on 01.08.1984 to the post of Field Supervisor, probation period was two years. On 09.09.1985 he was reverted, he was not active member of union. He was dismissed in the year 1991 but board of appeal took lenient view and he was reverted in initial scale. He in writing agreed to follow terms and condition after reinstatement. He preferred writ application, which was dismissed. While he was posted at Sargatia branch then in the year 1999-2000 then he misappropriated Rs. 69,100/- from the account of account holder. He was again suspended on 09.03.2000. Departmental proceedings were initiated on 06.02.2002 enquiry officer submitted his findings. All the charges against him were delinquent found proved. Thereafter he was dismissed from bank service on 22.03.2002. In cross-examination he stated that he joined head office on 10.08.1980 on the post of clerk-cum-cashier. Sri Baidyanath Pandit was not posted with him. He was not witness in enquiry proceedings. This witness was never posted at Sargatia branch. He had not seen Sri Baidyanath Pandit committing default. He had seen statement of Sri Jagannath Sah and Awadh Sah, they have alleged that Sri Baidyanath Pandit took amount from them and defaulted the amount. Show cause memo was given to delinquent before suspension. Surendra Pathak was Enquiry Officer. Chairman was Sri Prakash Narain Awasthi. He had given charge sheet in respect of three-four default.

Management witness no.-4 is Bhikham Thakur, clerk-cum-cashier in head office of the bank at Motihari. He has stated that Sri Baidyanath Pandit was working at cashier at Sargatia branch. He had defaulted about Rs. 69,000/- in that branch. He used to receive the amount from creditor and used to grant receipt in token of deposit. He used to make entry in pass book of the customer and used to make entry in ledger but he did not enter the amount in bank cash deposit register and he has defaulted the amount.

Eleven charges were framed against him. There are also same charges against some other matter. Before issuing the charge sheet in respect of all eleven points memo was given to him and explanation was received. Which explanation was not satisfactory. So charge sheet was issued and Enquiry Officer was appointed for departmental enquiry.

Enquiry Officer heard both the parties about 80 Exts were produced by presenting officer and five witnesses were examined. Out of them three witnesses were those, from whose account default was done. During departmental enquiry Sri Pandit by submitting application accepted all the charges. During enquiry it was asked by the Enquiry Officer, whether Sri Pandit has accepted all the charges then Pandit replied yes. At that time defence representative was present there. Mr. Pandit also stated that he accepts the guilt in healthy state of mind. Enquiry Officer submitted his report which was signed by Enquiry Officer. In enquiry there were signature of Sri Pandit his defence representative and representative of management. One copy of enquiry report was given to Sri Pandit. Enquiry report was submitted on 06.02.2002. Sri Pandit replied of the enquiry report on 18.02.2002. After perused of reply of Sri Pandit and other documents of the enquiry and antecedent of Sri Pandit and circumstances, disciplinary authority had issued second show cause notice. In which it has been stated apart from another punishment, about removal from service. Mr. Pandit was given opportunity to submit his reply. Which was submitted by him on 02.03.2002 and remained present for personal hearing before disciplinary authority. His reply was not satisfactory and order was passed on 03.03.2002 for dismissal of his service. Mr. Pandit preferred appeal before board of appeal but appeal was rejected. He also stated about Ext.-W and W/1. From Ext.-W it appears that default was done by Anil Kumar Jaiswal and Sri Narendra Kumar Tiwary, Branch Manager did not examine many entries. From Ext.-W/1 it appears that mainly Anil Kumar Jaiswal had defaulted the amount as accepted by him before notary public Bagaha in affidavit. Branch manager was confident that entries were confirmed. When Sri Pandit was field supervisor he was reverted to post of clerk. Again Sri Pandit defaulted in 1991 and in 1991 he was removed from service but board of appeal taking lenient view reinstated him on basic initial scale. Seeing his previous antecedent he was again dismissed from service. In the present reference case management got conducted departmental enquiry and gave opportunity of personal hearing on 21.03.2002.

In cross-examination he has stated that Sri Pandit joined on the post of clerk-cum-cashier on 05.12.1983. This witness had not worked at Sargatia branch. He had not seen Sri Pandit taking the amount and granting counter foil of the receipt. He has also not seen making forged entries in the ledger. This witness was not management representative, enquiry officer or as a witness. Disciplinary authority of the worker is general manager and appellate authority is the Chairman. Prior to suspension no explanation was asked from Pandit. General Manager is disciplinary authority in respect of clerical staff since 2000.

Management witness no.-5 is Nishith Kumar Verma is clerk-cum-cashier of extension branch, Motihari. He accepted that in the year-1984 Sri Baidyanath Pandit joined as clerk-cum-cashier. Thereafter he was promoted on the post of Field Supervisor. Thereafter in the year 1985 in fraud case he was reverted to post of clerk-cum-cashier and in the year 1991 in fraud case he was dismissed but in the year 1992 he was reinstated at the basic scale. He was again suspended in the year 2000 at Sargatia branch in fraud case by the then chairman and in the year 2002 the then chairman Mr Awasthi dismissed him. He did not get written, written acceptance from Mr. Pandit.

In cross-examination it has been stated that he in service of the bank in 01.11.1983. Mr Awasthi, chairman was posted since 2001 to 2004. He did never work with Mr Pandit.

Management witness no.-6 Kusheshwar Kant Verma, is branch manager in the bank. He stated that Mr Pandit was appointed in September, 1980 on the post of clerk-cum-cashier and in August 1984 he was promoted to the post of field supervisor but in case of fraud committed at Bakhari Bazar he was reverted back in September 1985 again he committed fraud at Bakhari branch and he was dismissed in September, 1992 he was reinstated in July, 1992. Again in March 2000 in the matter of fraud he was again suspended and in March, 2002 he was dismissed from service.

In cross-examination he stated that he never worked with Mr. Pandit. Nothing more important asked from this witness.

Management witness no.-7 Anil Kumar Sinha has also stated that in September, 1980 Baidyanath Pandit was appointed on the post of clerk-cum-cashier and he was promoted in 1984 to the post of field supervisor but in the year 1985 he was reverted back to the post of clerk. In the year 1989 he was suspended in second fraud case and he was dismissed from service after departmental enquiry. In the year 1992 board of director reinstated him on several condition. He has filed writ petition which was also rejected. Again third time he committed fraud at Sargatia branch and in March 2000 he was suspended thereafter in August 2000 charge sheet was issued. Show cause was asked and departmental enquiry was initiated in September, 2000. During examination of management witness Mr Pandit in writing accepted all the charges. Enquiry report was submitted and he was dismissed. During enquiry proceeding his defence representative remain present and in his presence of Mr Pandit accepted all the charges. Mr. Pandit stated before enquiry officer that he is mental healthy and there is no pressure on him and there was no inducement.

In cross-examination he has stated that he did not work with Mr. Pandit. He did not participated in the enquiry. He did not see Mr. Pandit committing fraud.

10. Two witnesses has been examined on behalf of the workman.

W.W-1 is Imamul Ansari, cultivator of Sargatia he stated that Mr. Pandit was posted at Sargatia branch as cashier. This witness has account in that branch. Mr. Pandit did not commit any fraud from his account. He has stated that Mr. Mishra was posted as manager and he stated there was same misappropriation in the account of this witness and bank will be shifted from there. He asked for giving in writing and he had written on the dictation of branch manager.

In cross-examination he has stated that his account no was 520. He had not written himself. Manager had written and manager had put signature and this witness has put also signature. He had not read over what was written by manager.

W.W-2 is Baidyanath Pandit, in affidavit he has stated that he joined the bank at clerk-cum-cashier on 27.09.1980 and in 1984 he was promoted to officer grade but reverted as clerk in the year 1985 due to active role in trade union. In the year 1989-90 he was dismissed from service of the bank and was reinstated in the year 1991. He was not allowed incremental benefit after reinstatement.

Vide order dated 09.03.2000 he was placed under suspension. Charge sheet was issued on 16.08.2000. No opportunity was afforded to him for replying those charges. Enquiry was instituted without hearing from him. The enquiry officer and presenting officer were appointed. Enquiry officer was hand in glove with the presenting officer and conducted the enquiry unfairly and improperly. He was coerced and tempted by the chairman to accept the charges. Accordingly, he accepted the charges under undue influence. During enquiry, enquiry officer was under constant pressure from the chairman. He submitted his finding which were perverse. As per service condition general manager was disciplinary authority and the chairman as appellate authority. Against my service condition chairman being the appellate authority passed the order of dismissal in the capacity of disciplinary authority.

In cross-examination he has stated that he had not filed writ against dismissal. Charges of fraud was framed, against him. In further cross-examination he has stated that he replied the charges in Sargatia branch. He has not committed fraud. Chairman dismissed him due to caste filling. He did not accept any charges against him. But his defence representative in writing did not submit acceptance of charges. He must have to be fixed the signature on it enquiry proceeding.

11. Matter under reference is that “ (a) Whether the action of the management of Champaran Kshetriya Gramin Bank in conducting enquiries free or biased? (b) Whether the punishment of dismissed w.e.f 22.03.2002 ordered to Sri

Baidyanath Pandit is in proportionate to the charges framed is legal and justified? If not, to which relief Sri Baidyanath Pandit is entitled to?"

12. We are only concerned with the punishment of dismissal w.e.f. 22.03.2002 of Sri Pandit and the enquiry against him in respect of those matter. Though statement has been made in written statement of the workman about his reverting from the post of officer grade in the year 1984 but was capriciously reverted to clerical cadre in the year 1985 and there was also his dismissed from service of in the year 1991. That the present case is related about the charge sheet dated 16.08.2000.

13. Management its written statement stated about the previous fraud and other matter. Several time Mr. Pandit was suspended and he was also reverted from the post of officer grade from the clerk grade. Previous charges were also in respect financial irregularities and fraud.

But in the present case is related to suspension vide memo no.- Pa. Ka./25/2000/A.Sachi/151 dated- 08.06.2000 and explanation submitted by Mr. Pandit and the charge sheet dated- 16.08.2000. From annexure-7, it appears C.W.J.C No.- 11698 of 1997 was filed by the Mr. Pandit against the management ( Bank ) challenging the validity of the order dated- 9<sup>th</sup> July 1992, whereby and where under the Appellate Authority on consideration of his appeal has reduced the punishment of dismissal from the bank by his reinstatement at the initial stage of pay scale with certain conditions mention therein. The writ petition was dismissed.

Suspension memo was issued on 08.06.2000 and explanation was asked from Mr. Pandit. This was mainly about receiving the amount from account holder Mr. Awadh Sah and others and not make entry in cash book. There were 11 charges as per annexure-10 of the written statement of the management. Since explanation was not found satisfactory so charge sheet was issued on 16.08.2000.

It appears from departmental proceeding that departmental proceeding was initiated on 20.09.2000, Mr. Surendra Pathak was enquiry officer and Mr. Devendra Nath Roy was management representative. Management representative stated that after 31.08.2000 Mr. Baidyanath Pandit did not arrive at on branch, so registered letter sent to him which was retruned back. Enquiry was adjourned to 27.09.2000 and it was decided to send letter to him at residence from special messenger and it was directed to Mr. Baidyanath Pandit to be present on the fixed place on time otherwise ex-parte hearing will be done. Thereafter on 11.10.2000 Baidyanath Pandit remained present. Management representative read over the charge against him, which was not agreed by delinquent. Management representative was directed to produce all the document, list of witnesses. Management representative Exhibited Nine ( 9 ) documents and list of witnesses.

Ext.-1 was photo stat of the ledger of the account of Sri chandeshwar Singh.

Ext.-2 was photo copy of account in the name of Sri Awadh Sah.

Ext.-3 is photo stat of the account his name of Sri Rajendra Sah.

Ext.-4 is photo copy of ledger of account of Lal Babu Prasad.

Ext.-5 is the photo stat of the account holder of Sri Kanti Sah.

Ext.-6 is the photo stat of the account holder of Sri Jagarnath Sah.

Ext.-7 is the photo copy account holder of Mr. Ayub Alam.

Ext.-8 is the photo stat of account of Imamul Ansari.

Ext.-9 is the photo copy of account holder of Ramashis Kushwaha.

Further management representative stated that he will produce further Exhibit. Delinquent was asked to susbmit name of defence representative and delinquent stated that on next date, he will submit the name of defence representative with consent letter, list of documents etc. Enquiry was adjourned. Delinquent submitted a letter stated that his mother & some family members are ill. So defence representative expressed inability to participate in the enquiry. He asked one month time. Delinquent stated that his defence representative is unable to attend enquiry. Enquiry was adjourned to 25.10.2000. On 25.10.2000 delinquent stated the name of Sri Chandra Mohan Prasad, Clerk-cum-Cashier for his defence representative and submitted consent letter. Delinquent further submitted that his representative will submit list of witnesses and documents. Management representative further submitted many documents which are ME-10 to ME-58. Enquiry was adjourned to 06.11.2000. It appears that since defence representative was busy so enquiry was conducted on 15.11.2000. In which defence representative was also present. Defence representative requested for production of some document. Defence submitted 10 documents. Further defence representative stated that he may file some other documents. List of witness was also submitted from defence. Management witness no.-1 was Kanti Bhushan Mishra who is branch manager at Sargatia branch since 15.12.1997. M.W-1 stated that in ledger in the last there was cutting of entry it can not be read. Balance as on 10.07.1999 has been stated Rs. 12,209/-. He further stated that on ME-12 which is

counter foil of S.B.Account No.-725 which is of Sri Awadh Sah of Rs. 2000/- counter file was issued by Baidyanath Pandit, amount was not entered in the scroll & in cash book. Further he stated that HSS ledger N-1 entry 249 in account of 456 there is cutting which is not clear. He also stated that ME-14 related to counter foil of HSS 456 dated- 18.12.1999 of Rs. 11,000/- issued to Sri Rajendra Sah by delinquent. He further stated that the amount have not been entered neither in ledger nor in scroll and nor in cash book. Balance amount on that date in pass book is 65,550.50 but in ledger enteries is 54,550.50. Thereafter balance on 02.12.1999 in ledger in 59,550.50 in pass book there is entry 70,550.50. In ME-13 other column is blank because pass book seized by auditor. ME-15 is cash credit voucher of HSS 456 of Sri Rajendra. Delinquent deposited on 28.02.2000 Rs. 11,000/-. It has been written that amount Rs. 11,000/- deposited by account holder was not entered by Mr. Baidyanath Pandit. In scroll book and it was mention in counter foil and pass book. Defence representative filed a petition that he want to peruse some record of the branch and it was directed by enquiry officer to management representative to make arrangement for same. Enquiry was adjourned to 22.11.2000. Further he stated that all the three entries of pass book was entered by delinquent. In ledger there is entries which was not confirmed by MW-1. On 24.01.2000 in receipt book there were only two enteries of Rs.2000 and 300/-. Thereafter 03.02.2000 there was posting of ledger of Rs. 1600/- which was not in receipt book nor any pass book. Which is suspected entry. Ext.- ME-17 is counter file of account no.- 735 of Lal Babu Prasad of Rs. 1600/- issued on 24.01.2000. ME-18 were deposit slip is name of Chotai Lal Sah on 23.02.2000 which was signed of depositor. HSS is name of Chotai Lal Prasad. Delinquent was absent in the branch and arrived on 24.02.2000 and submitted three deposit slips of HSS of 725, 67 and 735 of Rs. 2000/-, 3000/- and 1600/- respectively. Full deposit slip was of Rs. 6600/- but delinquent submitted of rs. 6500/- and withdraw of Rs. 100/- which on the instruction of Chairman was deposited 6500/- in CD Sunday. ME-11, 25, ME-18 are respectively of Rs. 2000/- 3000/- and 1600/-. Amount was received by delinquent on 23.02.2000. Ledger was posted by Mr. Pandit. On ME-18 there is no signature of cash receiving. Further he stated about ME-21 HSS 618 of Kanti sah and entry was not in scroll. Similar matter of Jagarnath Sah, Ayub Alam have been stated. This witness further stated that on 23.02.2000 delinquent was not present in the branch but in his writing entry of Rs. 5000/- was done in HSS 914 and whose balance was Rs. 10981/- but in the scroll dt-03.02.2000 there is no entry of that amount. Even there is no such entry on 23.02.2000 and that amount is lying with delinquent.

14. Further M.W-1 stated that in pass book 914 there is cutting and on 22.12.1999 by cash of Rs. 5000/- was deposited but that has not been entered on 22.12.1999 in ledger or scroll. Further this witness has stated that on 24.12.1999 balance should have been Rs. 16,646/- in last column ME-31 but that has been over written and amount has been made Rs. 10646/- all enteries has been verified by delinquent. Further in reply of question put by MR. he has stated that on comprision ME-7 and ME-31 it appears that Rs. 5000/- was dues on 22.12.1999 and on 03.02.2000 Rs. 5000/- was further dues that amount has not been deposited by delinquent. On 03.02.2000 delinquent was present in branch and on 23.02.2000 he was not present but in ledger by putting the letter 2 date has been made 23.02.2000. On 03.02.2000 one Imamul Ansari has deposited Rs. 6500/- but that has not been entered in scroll register. On 23.01.2000 was Sunday and on 23.02.2000 due to election delinquent was absent. But in ledger and pass book entry has been shown by delinquent. It appears that by putting the letter 2 before 3 making 2 as 1 the entry has been shown dated- 03.02.2000. Further he stated that there was no entry in scroll on 03.02.2000. In pass book date was entered 03.02.2000 and in ledger date was shown 03.02.2000 both entry were of Rs. 6500/-. So on suspension stopped payment was done. This witness has further stated that delinquent kept Rs. 6500/- till 06.03.2000 ( 32 days ). Enquiry further continued in 12.12.2000. This witness has further stated about the several discrepancy in HSS 788 pass book of Sri Chandeshwar Singh. He has further stated that on 10.04.1999 amount Rs. 15000/- was not deposited. This witness was incharge on that day but Mr. Baidyanath Pandit posted the amount Rs. 15000/- as deposited on 10.04.1999. He made entry and confirmed the entry. On that date Baidyanath Pandit entered Rs. 15000/- in his amount and confirmed the entry himself. But there was no posting in the ledger dt-10.04.1999. On 24.09.1999 there was withdrawal by Mr. Baidyanath Pandit of Rs. 15000/- specimen and signature on withdrawal form does not tally. On 24.04.1999 Baidyanath Pandit was the incharge in the branch. Similarly on 10.06.1999 amount deposited of Rs. 15000/- was shown and balance was Rs. 39,800/- and on the same date 10.06.1999 there is withdrawal of Rs. 39,600/-. ME-29 HSS 788 with the deposited slip of Chandeshwar Singh which has been filled by the delinquent. ME-27 is photo copy of pass book of Sri Ramashis Kushwaha and there is withdrawal of Rs. 15000/- on 10.06.1999 and signature does not tally with the specimen signature. Delinquent was on election duly on 20.02.2000 ( Sunday ) and delinquent has opened Sargatia Branch. This matter was informed to the chairman by telephone along with branch manager of the Baisakhawa and Gukhalia. Cross- examination appears have been done from this witness.

15. Further proceedings was done on 18.12.2000 and M.W-2 Ramashis Kushwaha was examined. This witness has stated that prior to election he had gone to bank for withdrawal of Rs. 10,000/- and Mr. Baidyanath Pandit stated he will pay the amount at his home to his son and took away the pass book. After 2-3 days Mr. Baidyanath Pandit had given his pass book at his home. After about a month auditor and manager arrived and asked pass book, they stated that 7-8 month before rs. 15000/- has been withdrawn from his account. He enquired the matter from cashier ( Baidyanath Pandit ) who stated that he will further pay Rs. 5000/-. He asked for parden. This witness further stated that entire amount have been paid to him. In cross- examination he has stated that about out of the error of Rs. 15000/-, Rs. 14000/- has been paid to him.

16. Next witness was M.W-3 Imamul Ansari, he has stated that he has given Rs. 6500/- on 2 or 3 dates which was not deposited thereafter cashier returned those amount. This witness was not cross-examined. M.W-4 was Rajendra Sah holder of account no.- 456. He has stated that he has deposited Rs. 3000/- but manager told that only Rs. 2000/- has been deposited. This witness asked for amount Rs. 11,000/- deposited by him and manager replied, that has not been entered in ledger. This witness was also not cross-examined. M.W-5 was Awadh Sah he has stated that he deposited Rs. 2000/- but amount was not deposited by cashier. M.W-6 is Harendra Sah he has stated that he arrived in the bank on the dated 21<sup>st</sup>. He has stated that he had gone to bank for withdrawal of the amount, manager was uneasy and told that there is no amount thereafter he and manager gone to Baisakhawan branch and to Betiah and in the evening they paid the amount. On 25.01.2001 no one appear on behalf of the defence. It has been stated that on 18.01.2001 by one registered letter it has been informed to enquiry officer and it has been stated that delinquent has requested by written application to disciplinary authority to decide the matter after personnel hearing. Management representative stated that knowingly delinquent does not want to participate in the departmental enquiry. On 06.02.2001 defence representative (DR) cross-examined to M.W-1. Nothing important has been gathered in cross-examination in respect of the charge levelled against the delinquent. Cross-examination of M.W-1 was over on 10.04.2001 and delinquent accepted charge sheet it was marked DE-12. It was stated to delinquent that after proving the charge there is provision for punishment under Champaran Kshetriya Gramin Bank service regularisation. In reply to question delinquent stated that he is accepting the charge without any pressure. Further he replied that he is accepting the charges voluntarily in healthy state of mind. Charge no.-1 was read over to him which was accepted by the delinquent.

He accepted the charge no.- 2,3,4,5,6,7. He also accepted charge no.- 9,10,11. Thus he accepted and agreed with the all the charge. Next date of proceeding was fixed on 19.04.2001.

It appears that further proceeding was done on 24.04.2001 it has been stated that during the proceeding delinquent Sri Baidyanath Pandit accepted all the charges. Defence representative (D.R) submitted some documents in defence which were circular no.- 17/92/15 dt- 30.09.1992 and 17/92/22 dated- 18.05.1992 which was marked as DE-13.

Another documents were letters of delinquent dt-15.01.1998, 28.01.1998, 10.03.1998, 26.03.1999 marked as Ext- DE14, 15, 16, 17. Next document was letter of head office no.- 24/99/165 dt- 15.04.1999 marked as Ext.-DE-18. Proceeding was concluded. Management representative submitted application of Jagarnath Sah dated- 18.10.2000 marked ME-60. Letter of MR dated- 19.01.1981, 10.04.2001, letter of MR dated- 24.04.2001. It has been stated that there is no need to file defence brief. Enquiry officer submitted his findings. He has stated that charge sheet was issued from office of head office vide letter dt- 16.08.2000. Representative of the management was Sri Devendrnath Ray, Assistant Branch Manager, Lohiaria branch and defence representative was Chandra Mohan Prasad. Enquiry was initiated. On 10.04.2001 defence representative (DR) submitting an application of the workman which is marked as DE-12. Delinquent accepted all the charges it was stated to delinquent in presence of DR (defence representative) that charge is proved, then as per Champaran, Kshetriya Gramin Bank, Staff Service Regulation, there is provision of punishment. Delinquent and is representative agreed with this.

Delinquent was asked some question and he stated that he is accepting the charges without any pressure and voluntarily in healthy state of mind.

Thereafter charges has been explained, each and every charges was explained and delinquent accepted all the charges one by one. Enquiry officer stated that charge no.- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 were found proved because delinquent accepted all the charges. Enquiry officer further stated that management representative (MR) and defence representative (DR) has submitted written argument which is not required because delinquent in presence of defence representative accepted all the charges. This report was sent to Chairman, Champaran Kshetriya Gramin Bank cum disciplinary authority.

17. From annexure-13, it appears that vide no.- /2001-02/II/54 dated- 04.02.2002 disciplinary authority sent letter to Baidyanath Pandit to submit his comment on enquiry report. From annexure-14, delinquent accepted the guilt before enquiry officer. He was in mental tension due to miserable economical condition but he had not given any benefit. He has stated that account holder of Sarghatia branch have not made any complain. He has stated that he will not give any opportunity of complain in future. He requested for setting -aside suspension. Vide order dt- 22.03.2002. Disciplinary authority dealt the matter he agreed with the conclusion of enquiry officer and all the charges were found proved. He has stated that in respect of charge no.- 1 to 7 punishment is given for dismissal. In respect of charge no.-8 to 11 there is provision for permanent stoppage of increments this was communicated to Baidyanath Pandit.

18. Disciplinary authority vide letter dt- 8/9.03.2002 issued show-cause to Baidyanath Pandit for punishment proposed to be given to him was dismissal from bank service. If he had to say anything then on 21.03.2002 in the head office, he may stated other wise, it will be deemed that he has nothing to say and punishment will be awarded to and on 22.03.2002 finally order of dismissal from bank service was given and period of suspension was not treated for the delinquent as on duty. On 19.08.2002 delinquent has given mercy petition to Chairman-cum-Disciplinary Authority and Board of director of bank. Even the Appellate Authority Board had rejected appeal of Baidyanath Pandit on 12.07.2002.

19. During proceeding before this tribunal Arun Kumar Sinha, Branch Manager of the bank, Motihari was examined who was auditor of the bank. He stated about the misappropriation and stated that misappropriation was detected and which is clear that delinquent taken the amount but not deposited in the bank. In cross-examination nothing has been gathered from this witness. M.W-2 Kanti Bhushan Mishra, who was branch manager at Sarghatia branch. He has stated that Baidyanath Pandit was relieved for election duty as he inspire of relieving he on one Sunday opened the bank and manipulated the record. Matter was investigated and many fraud was detected. In cross-examination nothing has been gathered from this witness. M.W-3 was Naveen Kumar Verma he has stated that Baidyanath Pandit joined the bank on 27.09.1980 on the post of clerk-cum-cashier on 01.08.1984 he was promoted to Field Supervisor. He has also stated about the conduct the Baidyanath Pandit which is not relevant. In cross- examination nothing has been gathered about the present matter in reference. M.W-4 is Bhikhan Thakur, he has stated that Baidyanath Pandit was clerk-cum-cashier on Sarghatia branch and he misappropriation about Rs. 69000/-. 11 charges were framed against him. Show cause was asked from him. During enquiry Baidyanath Pandit accepted the charges. Disciplinary Authority after hearing punished him and his appeal was rejected. In cross-examination he stated that he joined the bank on 05.12.1983. He never worked at Sargatia Branch. He was not management representative, enquiry officer or witness in this reference case. He has stated that at present disciplinary authority for the worker is General Manager and Appellate authority is Chairman. He further stated that for clerical staff disciplinary authority is General Manager after the year-2000. M.W-5 is Nishist Kumar Verma his evidence is not relevant but in cross-examination he has stated that in the year 2001-2004 Sri P.N.Awasthi was Chairman of the Bank. In para-12 he has stated that many cases are pending against Mr. P.N.Awasthi in Motihari court, one rape case is pending against him. M.W-6 Kusheshwar Kant Verma has stated that in August-1984 Baidyanath Pandit was promoted to the Field Supervisor on probation. Due to misappropriation done by him, he was reverted. Baidyanath Pandit committed fraud in March-2000 at Sargatia Branch in March-2002 the then Chairman Mr. P.N.Awasthi dismissed him. In cross-examination he has stated that he has no concern in suspension, dismissal of Mr. Pandit. He has also stated that many cases were lodged in Motihari court against Mr. Awasthi. M.W-7 was Anil Kumar Sinha, he has stated that 3<sup>rd</sup> times at Sargatia Branch Mr. Pandit committed fraud. Departmental proceeding was done against him. During proceeding Mr. Pandit accepted all the charges. On the basis of enquiry report he was dismissed. In cross-examination he has stated that this witness did not participate in enquiry.

20. W.W-1 Imamul Ansari has stated that at Sargatia Branch Baidyanath Pandit did not commit any fraud in his account. He has stated that branch manager Mr. Mishra stated that fraud was commit in the account on his dictation he has written. In cross-examination he has stated that he is acquainted with Baidyanath Pandit. He has stated that he put his signature on the writing of manager. W.W-2 Baidyanath Pandit has stated that vide order dt- 09.03.2000 he was placed under suspension. Charge sheet dt- 16.08.2000 was issued. No any opportunity was given to him for replying to the charges. He was coerced and tempted by the Chairman to accept the charges. He was again contacted by some person for giving money to the Chairman for which he was not capable. He has stated that General Manager was disciplinary authority and chairman was Appellate Authority. He did not commit any misconduct. In cross-examination he has stated that replied the charges and he did not commit fraud.

20. The reference for adjudication is (a) “ Whether the action of the management of Champaran Kshetriya Gramin Bank in conducting enquiries free or biased? (b) “ Whether the punishment of dismissal w.e.f 22.03.2002 ordered to Sri Baidyanath Pandit is in proportionate to the charges framed is legal and justified? If not, to which relief Sri Baidyanath Pandit is entitled to?”

21. Written argument has been filed on behalf of the management mainly stating antecedent of the workman. The present charge sheet was related to dt- 08.06.2000. He has been stated that no witness has been produced on behalf of the defence and all the charges were accepted by the delinquent.

22. So far the charges are concered since the delinquent agreed with all the charges and admitted all the charges so it can not be said that departmental enquiry was not fair. Hence award is answered that action of the management of Champaran Kshetriya Gramin Bank in conducting enquiries was free, fair and proper because all the charges were admitted and accepted by the workman namely Baidyanath Pandit.

23. Now to adjudicate “ Whether the punishment of dismissal w.e.f 22.03.2000 ordered to Sri Baidyanath Pandit is in proportionate to the charges framed is legal and justified? If not, what relief Sri Baidyanath Pandit is entitled to?”

24. In order dated- 22.03.2002 disciplinary authority had stated the provision against the charges which was dismissal in respect of charge no.- 1 to 7 which were proved. Nothing has been argued on behalf of the delinquent about the punishment in respect of the charges which were proved.

25. On behalf of the defence a web copy of the decision of Hon’ble Court of Supreme Court of India in Surjit Ghosh Versus Chairman & Managing Director has been filed. In which Deputy General Manager had acted as the disciplinary authority when he was in fact named under the Regulation as an Appellate Authority. It was argued on behalf of the respondent bank that no prejudice is caused to the appellant because Dy. General Manager is higher in rank then the disciplinary authority. The Hon’ble Supreme Court answered that order of dismissal suffers from an inherent

defect and has to be set-aside. But no regulation has been filed here to demonstrate that disciplinary authority was Appellate Authority. So this decision is not applicable in the present case.

26. It appears that Sri Baidyanath Pandit have also preferred appeal and appeal was rejected on 12.07.2002. In which N. K. Sinha Chairman of the Appellate Board, P.K. Chakarwari, Sri Anil Jha and Promod Kumar all member of Appellate Board there present. So award is answered that punishment of dismissal w.e.f 22.03.2002 ordered to Sri Baidyanath Pandit was in proportionate to the charges framed and was legal and justified. In the result, therefore, workman Sri Baidyanath Pandit is not entitled to any relief. Accordingly awards is answered as stated above.

Dictated & Corrected by me.

BIPIN DUTTA PATHAK, Presiding Officer

नई दिल्ली, 3 जून, 2016

**का.आ. 1152.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 115/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-41011/17/2012-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1152.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 115/2012) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 03.06.2016.

[No. L-41011/17/2012-IR (B-I)]

RANBIR SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

##### Present....

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT cum Labour Court,  
Ahmedabad,

Dated 29<sup>th</sup> March, 2016

##### Reference: (CGITA) No. 115/2012

1. The Dy. Chief Engineer (construction),  
Western Railway,  
Kalupur,  
Ahmedabad (Gujarat)

2. The Sr. Divisional Finance Manager,  
Western Railway,  
Kothi Compound,  
Rajkot

...First Party

##### Vs.

Their Workman,  
Through the President,  
Paschim Railway Karmachari Parishad,  
B/28, Narayan Park,  
Behind Chandkheda Railway Station,  
Sabarmati,  
Ahmedabad

...Second Party

For the First Party :  
 For the Second Party : C/o. P.R.K.P

### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/17/2012-IR(B-I) dated 31.07.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

### SCHEDULE

“Whether the action of the management of Deputy Engineering (Construction), Western Railway, Ahmedabad in not crediting the Provident Fund balance of Shri Sukhdev Fakira Patil, Jeep Driver deducted by Railway Electrification Department and Transferred to Sr. Accounts officer (construction) Western Railway, Ahmedabad on 22.08.1997 is legal and justified? To what relief the workman is entitled?”

2. This reference dates back to 31.07.2012. Second party Union representative R.S. Sisodia has note down on the order sheet of the reference that second party does not want to peruse the reference and the same may be dismissed as not pressed.

Thus, the reference is dismissed as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 जून, 2016

**का.आ. 1153.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 146/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-41011/27/2013-आईआर (बी-1)]

रणवीर सिंह, अनुभाग अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1153.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 146/2013) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 03.06.2016.

[No. L-41011/27/2013-IR (B-I)]

RANBIR SINGH, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

#### Present....

Pramod Kumar Chaturvedi,  
 Presiding Officer, CGIT cum Labour Court,  
 Ahmedabad,

Dated 29<sup>th</sup> March, 2016

#### Reference: (CGITA) No. 146/2013

1. The Divisional Railway Manager,  
 Western Railway,  
 Pratapnagar,  
 Baroda
2. The Divisional Railway Manager  
 Western Railway,  
 Near Chamunda Bridge,  
 Asarwa,  
 Ahmedabad (Gujarat)

...First Party



**Vs.**

Their Workman,  
Through the President,  
Paschim Railway Karmachari Parishad,  
B/28, Narayan Park,  
Behind Chandkheda Railway Station,  
Sabarmati,  
Ahmedabad-382470

...Second Party

For the First Party :  
For the Second Party : C/o. P.R.K.P

#### **AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/27/2013-IR(B-I) dated 22.07.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

#### **SCHEDULE**

“Whether the demand of the Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, W.R. Ahmedabad against the Divisional Railway Manager, W.R. Ahmedabad to promote Shri Gogaji as Cabinman in the scale Rs. 4000-6000 with all back wages and benefits from 04.09.1999 is legal, fair and justified? If so, then to what relief the above workman are entitled to?”

2. This reference dates back to 22.07.2013. Second party Union representative R.S. Sisodia has note down on the order sheet of the reference that second party does not want to peruse the reference and the same may be dismissed as not pressed.

Thus, the reference is dismissed as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 जून, 2016

**का.आ. 1154.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 87/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-41012/22/2005-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1154.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/2005) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 03.06.2016.

[No. L-41012/22/2005-IR (B-I)]

RANBIR SINGH, Section Officer

#### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD**

**Present....**

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT cum Labour Court,  
Ahmedabad,

Dated 4<sup>th</sup> March, 2016

**Reference: (CGITA) No. 87/2005**

1. The Divisional Railway Manager,  
Western Railway,  
Division Office,  
Rajkot

...First Party

**Vs.**

Their Workman  
Through the Divisional Secretary,  
Paschim Railway Karmachari Parishad,  
Nr. Vishwakarma Temple,  
Jawahar Chowk,  
Sabarmati, Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Janak R. Pandya, Advocate  
For the Second Party : C/o. P.R.K.P.

### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/22/2005-IR(B-I) dated 19.09.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

### SCHEDULE

“Whether the action of the management of Divisional Manager, Western Railway, Rajkot in imposing the punishment of reduction of lower stage in the existing scale for a period of five years without future effect to Sh. Fakruddin Veersingh, Khalasi on the basis of charge sheet for absenteeism with effect from 10.07.96 to 5.11.96 is legal and justified? If not, to what the workman concerned is entitled to?”

2. This reference dates back to 19.09.2005. Both the parties were served. First party filed the vakalatpatra (Ext.8) of his advocate Shri Janak R. Pandya but second party did not respond to file statement of claim. He has also been absent since then. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 जून, 2016

**का.आ. 1155.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 675/2004) (आईटीसी सं. 25/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-41012/81/99-आईआर (बी-1)]

रणवीर सिंह, अनुभाग अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1155.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 675/2004) (ITC No. 25/1999) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 03.06.2016.

[No. L-41012/81/99-IR (B-I)]

RANBIR SINGH, Section Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

**Present....**

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,

Dated 18<sup>th</sup> March, 2016**Reference: (CGITA) No. 675/2004****Reference: (ITC) No. 25/1999**

1. The General Manager,  
Western Railway, H/Or. Building, Churchgate,  
Mumbai
2. The Divisional Railway Manager,  
Western Railway,  
Pratapnagar,  
Baroda (Gujarat)-390004
3. The Divisional Electrical Engineer (Power)  
Western Railway, Railway Yard, Pratapnagar,  
Vadodara -390004

...First Party

**Vs.**

Their Workman,  
Mr. KantilalLaxmanbhai,  
C/o. J.K. Ved, Secretary,  
General Workmen's Union, Sinduri Mata Devsthan,  
ST Nagar Road, P.O. Godhra-389001  
(Panchmahal)

...Second Party

For the First Party : Shri B.S. Mishra,

For the Second Party : Shri J.K. Ved, Advocate

**AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/81/99/IR-IR(B-I) dated 25.08.1999 referred the dispute for adjudication to the Industrial Tribunal, Baroda(Gujarat) in respect of the matter specified in the Schedule:

**SCHEDULE**

“Whether the action of the Railway Administration through the Divisional Electrical Engineer (power) Western Railway, Pratapnagar, Baroda and its officers in terminating the services of Mr. Kantilal Laxmanbhai by way of punishment of ‘Removal from Service with immediate effect vide NIP dated 18.12.1990 is legal, proper and justified?

**AND**

“Whether the punishment of ‘Removal from services with immediate effect’ is proportionate to the gravity of the misconduct? If not, to what relief the concerned workman Shri KantilalLaxmanbhai is entitled to and what other directions are necessary in the matter?”

2. The second party in his statement of claim (Ext. 3) alleged that second party had been working with the first party as a permanent employee and served more than 12 years without any break but his services were terminated illegally with effect from 18.12.1990 and till date no termination order has been served on him. He raised the Industrial Dispute, the first party appeared and stated there that the services of the second party has been terminated. He was not paid any monetary benefits or compensation at the time of termination of his service. The second party served the notice dated 22.01.1997 vide registered post on first party but the first party did not respond to it. The second party has raised the disputes before the Asst. Labour Commissioner under section 10 (A) and 2 (A) of the I.D. Act, since the first party did not give reply to his aforesaid notice. The first party appeared before the Assistant Labour Commissioner and filed the reply. Aforesaid reply dated 17.12.1998 was submitted before the Assistant Labour Commissioner (Central), Vadodara. The first party levelled the charge of long absence from 23.01.1988 to 12.12.1988 in the Charge sheet. However, the aforesaid charge sheet till date has not been served on him. But before the Conciliation Officer, the first party stated that the aforesaid charge sheet was sent by registered post to him. But the said notice was received as unserved and further alleged that the said charge sheet was affixed on notice board on 19.01.1989. He further stated that first party did not follow the principle of natural justice in the departmental proceeding and conducted the inquiry

ex parte wherein the first party has taken the evidence of its choice and terminated the second party illegally. He further alleged that since he was the Railway employee hence all provision of I.D. Act is applicable. The first party cannot terminate the second party without affording the opportunity to defend himself as per the provision of Article 311(2) of the constitution of India though the first party has conducted the ex parte inquiry and terminated second party illegally. The second party further alleged that he was terminated as per circular No. E/308/7/8/98 dated 29.12.1990. He has further alleged that he expected that the first party will produce the said termination order along with the written statement. He further alleged stated that he was charged for absence from duty from 10 months on account of sickness while he was under the treatment of a private doctor. He has further alleged that the said documentary evidence will be produce at the relevant time and also informed the first party accordingly. The second party further alleged that as per the provisions of railway manual the he as an railway employee, he can be treated medically by a private doctor. He has further alleged that since he was a permanent employee of the railway department and hence he can get the sick leave, PL and CL. Aforesaid leave are generally given to the permanent employee with full wages. He further alleged that there was balance of leave in his account and hence he demanded the sick leave. He has further alleged that even if no leave is in balance there also the sick leave can be granted without wages. He has further stated that the first party has without considering the aforesaid fact marked him absent by misusing their power. The second party alleged that since the second party was class IV employee and he cannot pressure the first party in any manner and not able to stop them but doing false activity. He has further alleged that by misusing their powers first party illegally terminated him. The second party alleged that at the time of imposition of penalty of termination the first party has not considered the truth and real facts and terminated the service of the second party making him unemployed. He has further alleged that at the time of filling statement of claim he was 40 years old. He has further alleged that he had tried to secure job elsewhere but he could not get the same. If first party take him back on job, he is ready to resume his duty. He has further alleged that if Hon'ble Tribunal impose any lesser punishment exercising its power under section 11(A) of the I.D. Act. He prayed for set aside the termination dated 18.12.1990 and reinstatement on his original post with full back wages.

3. In response to the statement of claim, the first party submitted the written statement (Ext.6) and denied all the allegation of the statement of claim and submitted that no industrial dispute as per the provisions of section 2(A) have never arisen in the matter. Reference is time barred. The Industrial Tribunal have no jurisdiction over the matter. Second party had never been a permanent employee. He never served the first party for continuous 12 years. His services were not terminated illegally. His services were terminated with due process of law. Second party was serving as cleaner as appointed on 04.02.1981. He had been absent from duty without prior permission and getting his leaves sanctioned from 23.01.1988 to 12.12.1988. Thus, his absence was unauthorised one which was more than 12 months. Thus, the major penalty was awarded vide charge sheet no. E/308/9/3/98 dated 03.08.1989 as per the railway manual and law. The said charge sheet was sent to second party by register post which was received as unserved, therefore, the charge sheet was posted on the notice board of Senior Electrical Foreman (SEF (M) PRTN) on 19.01.1989 in the presence of two witnesses which may be treated as deemed service. Thereafter, N.H. Chanchlani, SS Electrical was appointed as inquiry officer on 20.02.1989. Copy of the said order of appointment of Inquiry Officer vide standard form No. 7 was sent to the second party asking him to submit the name of the defence counsel in the departmental inquiry to defend him vide letters dated 01.04.1989 and 16.08.1989. The second party submitted his representation to cancel the charge sheet on 09.02.1990. Thereafter, Inquiry Officer fix the date 05.09.1990 for appearance of the second party to appear at SEF (M) PRTN and informed the second party vide letter dated 21.08.1990. But second party didn't prefer to appear, therefore, inquiry was held ex parte. The enquiry officer after recording the evidence of the witnesses held him guilty for the charges levelled against him. Copy of the inquiry report was sent to the second party but he did not prefer to defend himself again within the prescribed period. Therefore, second party was awarded punishment of removal from service vide notice No. E/308/7/3/98 dated 18.12.1990 with immediate effect.

4. From the perusal of the pleadings of the parties, following issues are arises for passing award:

- (I) Whether the second party was a permanent employee?
- (II) Whether the second party was ill and could not attend the duty and he underwent medical treatment from a private doctor as permissible under the railway manual?
- (III) Whether the second party was served with the charge sheet regarding his long absence from duty?
- (IV) Whether the second party was given opportunity of hearing and defending himself in the departmental inquiry as per the principles of natural justice?
- (V) Whether the punishment order is excessive?

5. First party filed the 16 documents vide index (Ext. 24).

6. Second party did not prefer to file any documents in support of his statement of claim.

7. Second party Kantibhai Laxmanbhai Vadodara preferred to examine himself in support of his case which is Ext.9 wherein he stated on oath that he was appointed in the electrical department of Railway on 04.02.1981. He was a permanent employee and was terminated on 18.12.1990 and the order of termination has not been received till date. He stated that it is true that the charge sheet was against him for long absence from duty. Departmental inquiry was held against him and he was present in the inquiry. Medical certificate was produced by him but railway did not give him any documents. His signature was on sign-3 and the details which was mentioned in it, is true. He is ready to join the duty if the management take back him on his job. He was trying to get the job but failed. He further stated that he had been working in electrical department of Western Railway in Pratapnagar, Baroda but he had been on leave staying in Godhra during medical illness. He had been working since last 7 years and the documents of the same were in record. His services were terminated prior to the completion of 10 years' service but he did not remember the year of termination. There are 4 members in his family and lived with his elder brother and he helped him for his family. He was mentally upset and suffering with the mentally illness, therefore, he had to be absent from his service and to get medical treatment. He also obtained medical certificate for the same. He further stated that it is wrong that notice was sent to him by the management and no notice was received by him and he was received only one paper. It is also wrong that he was called for enquiry by the registered post.

8. On behalf of the first party Naina P. Amin was examined and submitted the affidavit Ext.23 in the form of examination-in-chief and reiterated the facts alleged in the written statement (Ext.6). In his cross-examination, he stated he does not know as to whether the second party Kantibhai was permanent employee or not. It can only be told by the personnel department of the railway. Second party was served by the charge sheet on 03.01.1989. Here, in the whole cross-examination of the witness nothing has been asked by the second party's learned counsel regarding the violation of the principle of natural justice or unfairness or illegality, if any, being committed by the first party in the departmental inquiry. Nothing has also been asked as to whether the second party had been on long absence from the duty without any valid reason.

9. **ISSUES NO. I:-** Whether the second party was a permanent employee?- The second party Kantibhai in his statement on oath stated that he was a permanent employee and first party has not filed any documents which may prove that he was not the permanent employee. It is also noteworthy that witness of first party Naina P. Amin has also expressed ignorance regarding this fact. Thus, in the light of the aforesaid evidence, it can be assumed that second party was a permanent employee of the first party.

10. **ISSUES NO. II:-** Whether the second party was ill and could not attend the duty and he underwent medical treatment from a private doctor as permissible under the railway manual?- The burden to prove this issue was only second party. Second party Kantibhai Laxmanbhai Vadodara in his statement on oath has stated that he was mentally ill and had been under medical treatment consequently he was absent from duty for a long period. But he has not submitted any documentary evidence regarding his mental illness and medical treatment thereof. Therefore, in the light of the aforesaid evidence, it can be assumed that he has failed to prove the aforesaid facts of medical illness and treatment and justification of long absence from duty for valid reason. Thus, this issue is decided in negative and against the second party.

11. **ISSUES NO. III:-** Whether the second party was served with the charge sheet regarding his long absence from duty?- The burden to prove this issue was again on second party. He has failed to give any evidence to prove the fact of non-service of charge sheet which the first party has very well explained by the examination of Naina P. Amin.

12. **ISSUES NO. IV:-** Whether the second party was given opportunity of hearing and defending himself in the departmental inquiry as per the principles of natural justice?- The burden to prove this issue was also on the second party. He has not uttered a single word in his evidence as to how he was not given opportunity of hearing and defending himself in the departmental inquiry as per the principles of natural justice. Thus, this issue is also decided in negative and against the second party.

13. **ISSUES NO. V:-** Whether the punishment order is excessive? – It is admitted fact by both the parties that the second party was absent for 12 months. He has failed to explain the reasons of absence from duty by way of documentary evidence as being necessary in case of illness and medical treatment thereof. Thus, the punishment awarded cannot be said to be excessive. Hence, Reference has no force and fit to be rejected.

Order is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 जून, 2016

**का.आ. 1156.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एमएसआईआरसीटीसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, दिल्ली के पंचाट (संदर्भ सं. 116/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-12025/01/2016-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1156.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 116/2015) of the Central Government Industrial Tribunal-Cum-Labour-Court No. 1, Delhi as shown in the Annexure in the Industrial Dispute between the management of M/s. I.R.C.T.C. and their workmen, received by the Central Government on 03.06.2016.

[No. L-12025/01/2016-IR (B-I)]

RANBIR SINGH, Section Officer

**ANNEXURE**

**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, DELHI**

**ID No. 116/2015**

Shri Pawan Kumar and 6 others, through  
Delhi General Udyog Karamchari Sangh Regd.,  
Affiliated to Bhartiya Mazdoor Sangh,  
5239, Ajmeri Gate,  
Delhi-110 006

...Workman

**Versus**

1. M/s I.R.C.T.C.,  
Corporate Office, 9<sup>th</sup> Floor,  
Bank of Baroda Building, Barakhamba Road,  
Connaught Place, New Delhi-110 001
2. M/s Shomukh Engineering & Consultancy Services,  
G-I, Ground Floor,  
South Extension Part II,  
New Delhi – 110 049

...Managements

**AWARD**

Brief facts giving rise to the present case is that Shri Pawan Kumar and 6 others, (hereinafter referred to as the workmen herein) filed a case before this Tribunal under sub section (2) of Section 2A of the Industrial Disputes Act, 1947(in short the Act) with the averment that the workmen herein were in the employment of management of IRCTC since 01.06.2005 on different posts. They were doing work under different contractors. At the relevant time, they were working under the contractor, M/s Shomukh Engineers and Consultancy Services, New Delhi in the canteen of IRCTC, Northern Railway, New Delhi. They were working for more than 12 hours in a day at a monthly wage of Rs. 8600.00, which is much less than the minimum wages fixed by the Government under the Minimum Wages Act. The workmen herein were deprived of the various facilities which are available to the workmen under the provisions of the Act as well as other labour laws made for the welfare of workmen. Management was obtaining signatures and thumb impression of the workmen herein on blank papers and the working had put their thumb impression/signatures in good faith that they would be given suitable employment, alongwith wages.

2 It is also the case of the workmen herein that they are members of the union and were working in the base kitchen of IRCTC, Northern Railway. Their work is regular and perennial in nature. Work being obtained by the contractor from them was in violation of Contract Labour and Regulations Act, 1970. The workmen herein were told by the contractor that after 07.02.2014, their services would not be required and they could look somewhere else for their employment. No notice was served upon the workmen herein when their services were verbally terminated on 07.02.2014. Workmen herein were also not paid wages in the month of January and February 2014. When the workmen approached the management again to continue them in service, management flatly refused. The workmen

herein were not served with any kind of notice or charge sheet nor any enquiry was held against them before termination of their job. Action of the management has been alleged to be totally arbitrary and illegal. Demand notice was also sent by the workmen herein to the management by post but no reply was filed by the management to the same. Thereafter, the workmen, through their union, lodged a complaint with the Assistant Labour Commissioner (ALC), Labour Department. Despite sending of several notices by the Labour Department, nobody appeared on behalf of the management before the ALC. This action of the management is totally against the interest of the workmen.

3. Notice of the petition was served upon the management, who did not turn up despite notice. Accordingly, management was proceeded ex-parte vide a order dated 01.10.2015.

4. Workmen, in support of their claim, examined Shri Pawan Kumar as WW1, who has submitted a detailed affidavit, which is on the same lines as the stand taken in the statement of claim. This witness has also proved demand letter Ex.WW1/1, postal receipt Ex.WW1/2, copy of ID Card as Ex.WW1/3 and Ex.WW1/4. There is also copy of minutes dated 03.02.2014 which shows that a meeting of the union took place on the above date, wherein they have vented their grievance regarding less payment of wages and termination from the job. They have also authorized Shri B.S. Rawat to pursue their case before the competent authority. Copy of report of the Conciliation Officer is Ex.WW1/6, which also shows that the workmen herein has also approached the said officer for settlement of their dispute but to no use. There is also a certificate dated 14.08.2014 issued by the ALC, namely Shri Dinesh Narain, which shows that the Conciliation Officer took up the matter on 07.05.2014 and thereafter; however, no settlement could be reached. After expiry of mandatory period of 45 days, workmen herein directly filed their claim under sub-section (2) of Section 2 of the Act.

5. I have heard Shri B.S. Rawat, authorized representative for the workmen herein.

6. It is clear from the averments made in the statement of claim as well as affidavit Ex.WW1/A that the workmen herein were employed with the Contractor, M/s Shomukh Engineers and Consultancy Services, New Delhi, Management No.2, to whom work has been outsourced by Northern Railway. Perusal of the demand letter Ex.WW1/1 shows that the workmen through their union have approached the management of Northern Railway for settlement of their dispute regarding demands of the workmen herein who have been working in the base kitchen of Northern Railway. They have also alleged commission of unfair labor practice by the contractor as they are not being paid minimum wages as required under the law. Further perusal of the Identity card of Shri Pawan Kumar Ex.WW1/3 shows that he was deployed by M/s Shomukh Engineers and Consultancy Services, New Delhi, Management No.2 at IRCTC from 11.02.2012 to 10.01.2013. Similarly, Shri Pawan Kumar was deployed as Shift Supervisor and his main job was bed roll services provided on railway system by IRCTC. It is also clear from perusal of Ex.WW1/6 that matter was taken up by the workmen through their union before the ALC who vide order dated 14.08.2014 tried to settle the matter but no settlement could be reached between the parties.

7. There is force in the contention of the workmen herein that they were not served with any kind of notice as required under Section 25F of the Act before termination of their services. Section 25F of the Act clearly provides that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment or the workman has been paid in lieu of such notice, wages for the period of the notice. Now the legal position is fairly settled by various judgements of the Hon'ble Apex Court as well as High Courts that compliance of provisions of Section 25F of the Act is mandatory and same would be applicable even in the case of termination of contract labour or casual worker.

8. Since from the Identity card as well as proceedings of conciliation held before the ALC, it is clear that neither Management No.1 nor the contractor M/s Shomukh Engineers and Consultancy Services, New Delhi, Management No.2 has cared to be present and settle the matter with the workman. Not only this, even before this Tribunal, none has appeared on behalf of M/s Shomukh Engineers and Consultancy Services, New Delhi, Management No.2. Thus, there is no evidence to the contrary adduced by the contractor so as to dislodge the case of the workmen herein. In such a situation, it is held that the workmen herein were in the employment of M/s Shomukh Engineers and Consultancy Services, New Delhi, i.e. Management No.2 and their services were terminated without any show cause notice or payment of one month salary in lieu of such notice, as required under Section 25F of the Act. Resultantly, action of M/s Shomukh Engineers and Consultancy Services, New Delhi, Management No.2 is held to be totally illegal and against principles of natural justice.

9. It has come in the evidence of the workmen herein that they were not suitably employed after termination at any other place and no evidence has been led by the managements so as to show that after termination of the workmen, they were gainfully employed at some other place. To my mind, in such a situation, workmen herein are also entitled for full back wages from the date of their termination till reinstatement.

10. As a sequel to my discussions made herein above, it is held that order of termination/retrenchment of the workmen herein with effect from 07.02.2014 is totally arbitrary, illegal and against provisions of the Act and the workmen herein are entitled to arrears of back wages from 07.02.2014 and liable to be reinstated. In case wages are not

paid by M/s Shomukh Engineers and Consultancy Services, New Delhi, Management No.2, arrears of wages would be paid by the principal employer, i.e. IRCTC, who shall have every right to recover the amount so paid from M/s Shomukh Engineers and Consultancy Services, New Delhi, Management No.2 from moneys due to them. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : April 29, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 3 जून, 2016

**का.आ. 1157.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ सं. 688/2004) (आईटीसी सं. 30/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.06.2016 को प्राप्त हुआ था।

[सं. एल-42012/32/99-आईआर (बी-1)]

रणवीर सिंह, अनुभाग अधिकारी

New Delhi, the 3rd June, 2016

**S.O. 1157.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 688/2004) (ITC No. 30/1999) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 03.06.2016.

[No. L-42012/32/99-IR (B-I)]

RANBIR SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present....

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT cum Labour Court,  
Ahmedabad,

Dated 4<sup>th</sup> January, 2016

**Reference: (CGITA) No. 688/2004**

**Reference: (ITC) No. 30/1999**

1. The General Manager,  
Western Railway, H/Or. Building,  
Churchgate,  
Mumbai-400001
2. The Divisional Railway Manager,  
Western Railway, Pratapnagar,  
Baroda (Gujarat)-394220
3. The Sr. Divisional Electrical Engineer (TRO),  
Western Railway,  
Pratapnagar,  
Baroda (Gujarat) 394220

...First Party

##### Vs.

Their Workmen  
Through the Dy. General Secretary, (Zonal),  
Paschim Railway Karmachari Parishad,  
Shastri Pole,  
Kothi,  
Baroda-394220

...Second Party



For the First Party : Sh. Jatin J. Vakil, Advocate  
 For the Second Party : Sh. J.K. Ved, Advocate

**AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/32/99/IR(B-I) dated 13.09.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

**SCHEDULE**

“Whether the inaction on the part of the Railway Administration i.e. General Manager, Western Railway, Mumbai, Divisional Railway Manager, Western Railway, Baroda Divisional & Sr. Divisional Electrical Engineer (TRO), Western Railway, Baroda for not granting the benefit of stepping up of pay to Shri A.K. Shrivastav & all others, If any (who are senior to Shri L.R. Rajpal) at par with the basic pay of Mr. L.R. Rajpal as on 01.04.1986 in the pay scale of Rs. 2000-3200, is proper, legal and justified? If not, to what relief Shri A.K. Shrivastav & all others are entitled to and from which date and what other directions are necessary in the matter?”

2. This reference dates back to 13.09.1999. Both the parties appeared. Second party submitted their statement of claim (Ext. 4) first party despite putting appearing did not prefer to submit written statement.

3. But both the parties have been absent since last several dates. Thus, it appears that both parties are not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the parties.

The reference is dismissed in default of the parties.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 7 जून, 2016

**का.आ. 1158.**—उपदान संदाय अधिनियम, 1972 (1972 का 39) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 5 की उपधारा (2) के अधीन नई दिल्ली नगर पालिका परिषद् ने छूट के लिए आवेदन किया है;

और केन्द्रीय सरकार की राय में उक्त स्थापन के नियमित कर्मचारियों द्वारा प्राप्य उपदान के फायदे; जो केन्द्रीय सिविल सेवा (पेंशन) नियम 1972 के अधीन आते हैं, उक्त अधिनियम के अधीन के प्रदत्त फायदे से कम नहीं हैं;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 5 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नई दिल्ली नगरपालिका परिषद् के नियमित कर्मचारियों को उक्त अधिनियम के उपबंधों के प्रचालन से छूट देती है, जो केन्द्रीय सिविल सेवा (पेंशन) नियम, 1972 के अधीन आते हैं।

[सं. एस-42014/01/2009-एसएस-2]

सुभाष कुमार, अवर सचिव

New Delhi, the 7th June, 2016

**S.O. 1158.**— Whereas the New Delhi Municipal Council has applied for exemption under sub-section (2) of the section 5 of the Payment of Gratuity Act, 1972 (39 of 1972) (hereinafter referred to as the said Act);

And whereas in the opinion of the Central Government, the gratuity benefit receivable by the regular employees of the said establishment who are covered under the Central Civil Services (Pension) Rules, 1972 are not less favourable than the benefit conferred under the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5 of the said Act, the Central Government hereby exempts the regular employees of the New Delhi Municipal Council who are covered under the Central Civil Services (Pension) Rules, 1972 from the operation of provisions of the said Act.

[No. S-42014/01/2009-SS-II]

SUBHASH KUMAR, Under Secy.